Page

The Law relative to Legacies — Vide

(2a)

Toller on L. 245. 3 Vesey Jr. 10-16 -

The interest of a legacy is in Eng 4 per cent -
If the legacy is specific the principle &
interest carries from the testator's death
go together Tor. L. 252.
A general legacy carries interest (where no
time of its payment is mentioned) one year
from the testators death. (And if the
money is not paid the legatee shall get not
carry here 6 per cent.)

Where the legacy is delivered in presente
or bequeathed in future (and nothing is said on
carrying interest) it begins only from the time
the money is to be paid. Ves. Jr. 16 -

Interest never carried on a legacy after the
expiration of a year unless it has been demanded
at the time legacies

If the legacy rests on the happening of a contingency it must happen or it reverts, but if it rests on presents & is payable on contingency, it may be paid to one's representative as, where A is 21, if A dies before, his representative takes it when A, if he had lived, would have been 21, and if it is payable with interest, immediately Poole 131-245.

A legacy to a son (if he needs it for support, education &c.) payable at a future time, carries interest from the testators death, the nothing is mentioned of the interest. but this is an anomalous case

If a legacy is limited over, the remainder man takes it on the death of the first legatee, tho his representative would not till the time when the legatee would have received it had he lived, unless the whole interest was running

The hardship is to Conveyance — inside Robert

TC 1-30-44

If man is in debt at the time of conveyance

If he is not in debt, this can against subsequent purchasers for cy, and subsequent creditors except in the case of family settlement bonafide, fair and subsequent creditors won't take.

In these cases the original intention is fraudulent tho proved by subsequent events.

But this contract must be proved to be fraudulent before the Sts touch. Then, hence the Conveyance make void the contract, page 12

Courts will not execute an agreement, made by Conveyance to the prejudice of subsequent purchaser, unless this purchaser had notice of the articles. 230-1,

And in equitable choses, whether by husband or wife or for consideration, go to equity to determine the rights may require first in Eq

Settlement — 291-2

But the wides chattels may in trust, as term expired
the [illegible] may apear & the [illegible] will be not
obliged in Eq to make a settlement on the [illegible]
1 Term 104. Bolt 3.40 — 2

Amount of Wood, from September 1813 —

Three Cord of 2 Feet	—	10 — 0
Four Cord of 2 Feet	—	14 — 14
Eight Cord ~~of 4 Feet~~ Martin	—	44
One Cord of 4 Feet		6 —
One Cord of 4 ? —	—	6 —
One [illegible] 2 Feet		3 —
Three cords of 4 feet Martin	—	16 — 75
Eight cords of 2 feet & 18 Martin		28, 30

Epitome

Under this title many circumstances will always arise

If there are those persons that will be willing for such witness to a point in dispute

Testimony may be included under three heads —

1st written

This includes all written evidence, a written evidence is always better than parol

2. Parol

This includes all evidence given viva voce & all depositions in B.R. all those ultimately reduce to writing is still parol

3 Presumptive

This is indirect to the great point, but the others direct this includes any evidence written or parol that for one tendency to a fact to great point in debate, the evidence cannot exist a B.R. issue but for reason

2 :

Evidence

[illegible] the witness is often ~~[illegible]~~ [illegible] to establish the point in the case with [illegible] certainty. A man is not of course to be found innocent because the jury [illegible] he may not be guilty. But a jury ought to be cautious not convict if they can rationally excuse

[illegible] the evidence is [illegible] [illegible] the witness

[illegible] evidence is often [illegible] [illegible] [illegible] [illegible]

There are three causes of exclusion

[illegible] 1st Interest in any, the least [illegible] interest, this is impossible to verify the quantity of interest, therefore rule must be general, this interest must be only pecuniary. Direct [illegible] infamy is not a bad character, but one convicted of the crime of false [illegible] [illegible] must be proved as evidence. Crimen falsi are those that [illegible] [illegible] man has no integrity, [illegible] forgery perjury &c

3d Proposition. For one a witness is not under an oath. 4th Proposition.

These cases go to incapacitate the witness most merely, as weaken his testimony. These witnesses cont come into a C.

There is but one relationship that incapacitate as evidence, but all persons go to the strength of the evidence i.e. husband & wife. Lawyers & Politicians say that these two should be as any other reasonable being when they are interested if they chose to, so in this case interest is not the objection to the husband & wife, consider pecuniary. This rule & the C. wont let the wife testify if the man is willing.

Brownlow 47. 1 Salk 280, Hardres 634 & Hawk 431. This rule cannot hold as it strikes de facto - for then may quarrel. Point to this rule there is one exception when one of them wishes to swear against the other.

Case is where the wife wishes to testify of personal abuses heaped upon them & is in personal abuse

In question has been disputed, but now
to be settled that an injured woman may
[illegible] Hutt 116, 1 Ves 1, 1 Vent 116

In the case of treason it was held a woman wit-
n. p against her husband, this point is now in
Bonnewell

Relation of Client & Atty

[illegible]

An atty is wholly unqualified to com-
municate what he holds in confidence
Et nemo tenetur

1 Vent 197

In confidence means what he has learnt
as attorney for this is a breach of trust,
I [illegible] it otherwise he may

In a question if a friend is bound to com-
municate any secret communication
not otherwise to be learnt — Eldon answered he
[illegible], but [illegible] to it, for it destroys
all confidence, all advice all security and
no man can answer to his own friend
but may suffer for the want of advice

Ex parte Pitt

[illegible] other witness
[illegible] the prince

[illegible] testimony. The Ct will strike them out but not if there is any real evidence against them, & even after the Ct will receive them no doubt shall be tried first if the Ct strike the evidence in equivocal.
2 Dall 287

of Particeps Criminis in cons testify, but the Ct will judge of the testimony.
It's a man turns states Evidence he cannot of course claim all release himself from the Government may grant, Ex Ellsworth
2 Haw 482
don't believe it, for if he is not released, he can't testify at all, & if he is released then the State must be bound by it own consent
4 Hand of Discretion in case then cause for excluding a witness
1st Interested persons, 2d Consider
An interested person is one who has any pecuniary interest in the question pending, this rule must from necessity be absolute
An interest in the question is of

no detriment except as to the credibility, the interest must be one in the very suit in the Court. An interest in the event is direct & incident. The test is easily understood, a consequential interest is one where the verdict obtained will or may lie against the witness, as in the case of bail and prisoner. But a possible or probable contingent interest will not exclude, as a suit commenced by an aged man, like to die, here the person who is to be interested is not really interested. A bail is in some measure contingent, but not enough to keep out the witness who is interested in the event possible yes to establish a fact that may lie against him in an other suit, this very fact must decide the after hand that he is not interested

An interest in the question does exclude the witness.

This interest exists where two men have the same kind of pecuniary suits of the same nature, depending upon the same law & the same kind of evidence. The law will not presume any conspiracy between these witnesses, but if it can be proved to exist then the witness is excluded, for he is interested in the event.

The way to learn if a man is interested, is from facts which in his case the Ct must consider on & not a jury and often you may make the witness swear whether he is interested or not. This can be proved only one way, as a man before the Ct may be proved guilty of perjury yet might still be bad by

1 Hawk 96, 4 Bur 2257

1 Salk 283 2 Ray 724, 4 Bur 2259

But where a witness has in his honour
the not really in interest, he is exclu-
ded, for as he thinks himself interested
4 Burr 2259
so he can be made so legally, he is
really under the influence of interest
for this man will pay from honour.
Formerly interest did in the question exclude in
criminal suits except in forgery
perjury, usury. Even there is no
reason why interest should not exclude
a man in civil or criminal suits
but formerly & now in some of the
states, interest in the question not excludes in civil suits
with the above exception not in
criminal suits,
4 Burr 2281, 3 Burrford
But now its true law, that no interest
in, no suit in the question excludes
the law has been recognised in all courts
of Westminster

interest — the question formerly excluded in civil suits & in criminal except perjury, forgery & usury But it now excluded in no suit whatever.

However in some of the States, an interest in the question excludes in civil suits & no criminal but perjury forgery, & usury

There are some exceptions to the general rule of interest, as grounds on mere suspicion there is a strong tendency to evade, some of which will be considered as where a person voluntarily for himself, but then this is the rule in case of interest in the amount of the verdict, But in all cases of contravention where the informer shows in the verdict, he cannot be a witness. 7 Bull 283, 3 Atkins 114 Netter 193 Wordsey 331, Ware 276

Where a man is found in a lawsuit, Bum thinks, he may be a witness

interested witness

the Plaintiff has never recovered, for

in respite demands this testimony

but the person testify only to the

amount of the money, for other men

testify of the circumstances & of the

fact who it was

so said a daughter on the ground

the interested cant testify in an

action by her father for seduction —

but she is not interested & is a good

St 1084 witness

so is said a creditor cant testify for

a debt, for Greenl says the creditor

is interested, for he claims the bail

perhaps he cant even be reimbursed

but now the sheriff may St 505, 1026, Blordnes 176

the sheriff has suffered an

extra escape & is interested to a voluntary escape — the escaper brought

to as witness now surely he is interested

it respite permits the escaper to give

evidence so in the case of escapes

of Promise

So in the case of tort feasants, where three persons are sueds of a tort, two of them may be used & the other called to testify, tho a suit may also be brought against the witness, if the other are released

So Agents & Factors may testify for their principles, tho they may be interested as the principal may even

So where persons become interested wantonly in a suit for the mere purpose of disqualification, they must testify, so where a witness becomes bail for the purpose of disqualification he must testify.

Woodcock vs Hatch

So in an action of account after the cause goes before auditors, the Def & Pltf may be witness, for at first has come point this con where in Pltf Def, in law this is a Def so the common law

Interested Witnesses

There is a law, in both cases, the parties may not testify

So when a master sues for an injury to his servant, the servant ~~not~~ can be a witness, for he is interested only in the question

§ 414, 893, 944, 2d ed

recovery only for his services, he must sue for personal injury himself

Point settled if a man who gains a general judgment whether he may be a witness, he may be if he loses in the judgment his interests in harmony, he is no loser however the case may turn, but when the man was not a party and understood at the time of the decision a g. l. is only given he ought to be no witness for probably he may be liable as the result may turn it is however unsettled

In foreign attachment, in law from the claim of person is forced to give testimony, if the party cant be heard or if the person may

tell his own story, for perhaps he has paid his debt, but it proves B not Jackson, and B to whom B was indebted, still demands it of A. Now on a judgment against A, it may be that he (A) proves B, but B takes it B debt to be must be proved by other witnesses A cant testify to that fact, or he doesn't know it

Is a general rule that a witness is incompetent in law is in court with one exception, namely

In equity the parties themselves are competent, but not if his evidence will criminate himself, upon him it constitutes forfeiture, as to a penalty where the other party is to share the penalty,

In Eq the parties are not considered as the real parties, for instance a man cant impeach his own witness, but in Chan the opposite party, was the impeached, tho the truth of the matter is doubting

In Law you cant question the character of a witness or what he says, but you may prove the contrary if you can by other testimony.

Other so in Law a witness must speak but in Eq. a man cant be forced to speak & his interest is no consideration of it.

In Law there is no difference as to Equity & law as to evidence, a witness cant be impeached in either, tho he may in Law.

Where a person is equally interested on both sides, he is still a good witness.

A verdict given in a criminal suit can never after be given in a civil suit, for no verdict can be given in any suit except between the same parties and on the same point.

A servant is a witness, when a master is sued for his servants negligence, tho the very verdict may after be given in evidence in an action by the master against the servant.

Infamous Pardon

An infamous person is one found guilty of a crime that goes directly to destroy the veracity of the witness

Perjury then is but one doubtful case and that is legal barratry, but this is now considered as infamous
1 Salk 690

3 Levin 425, 2 Ros 1.

Some time said that the punishment was the criterion of the crime, but now the crime is the criterion whether it be false

This person may be restored by pardon and then he is a witness in any case. But Perjury says this not law on principles, a pardon dont go on the principle of denying the crime but only excusing the punishment, a contrary principle would be dangerous, A Pardon is a mere matter of grace — and the man the excuse from is an honest in the same faith & creature

But the rule of pleading in the case of infamy must always be pro: [illegible] it is lost!

In Con we have a new law on this subject but S & B have admitted persons convicted of false, but they went on this principle that an after life of veracity & sobriety will rebut the influence of the adjudgment, &c. &c. &c. & make a great deal of law

2 Hawk 452, 453, 1 Ry & Mo 96 q. 1 Salk 689, 1 Ld Ent 341.

3 Affidavits

However upright an affidavit may be it can never be taken on oath

1st Old Point or South should come in but it would not be more than the same as

formerly only a few & [illegible] could give testimony so in the time of L Coke, But this never was in law in this country 6 Ld 5, 2 Coke, 2 Hawk 434

Now if a man believes in a God or Gods
tho very indistinctly so in a future
state, he is a witness, but even man
must swear by his tenets & after his own mode

St 1104, 1 Stth 21

This is man. the law of Eng as well as of
America

Universality who dont believe in future
punishments, can they be witnesses?
to unsettle, If you go on the ground
of belief in a God, they may but if on
the belief of future punishments
they may not, & what is the fact without
the Ca.

The quest has been settled in the Sec.
alcuen in Can by the Stts of Errors

Defect of Understanding

A minor may testify if he is sensible
of the import of an oath, some minors
are wiser in many than others, if over
twelve the prio presumption is for the
but under against the, 2 St 706

Dont Ex. are often admitted to tell their story.

In Eng. Quakers cont testify in criminal cases but may in civil,

But in the 6th Geo. chancellor dis. rection dont now never rides it in the Country, Burrow

In the Country, Quakers may testify in all cases criminal & civil

The rest Evidence the case decide as it is most in law,

Where the law requires a certain kind of Evidence, that evidence must be produced & no other will answer

But where a contract may be proved by parol or written & is reduced to writing then the writing is the only admissible evidence

So where there are subscribing witnesses they are the only witnesses.

Jones 206

contradicting to the contract, p.
the only proof is real contract

Exception to the great rule of
requiring the best evidence

Where a fact is to be proved only
by parol, the person may bring
such evidence as he chose, the fore-
going rule holds only where, a con-
tract must be proved by writing
or by writing if there is any wri-
ting

The Ct must exclude all evidence
not at all relevant to the case
Here the Ct must judge for themselves

Hearsay Evidence is not admissible.
The evidence of what a man says,
Here the man was not sworn or cast
but if he was then the first witness
is the best, but if the man is

dead & was under oath, then the second man may testify,

But where a witness testifies in ct another witness may be introduced to show that witness when not under oath told a different story, Here the evidence impeached is not considered as evidence but nothing atall, the second evidence is only to show the first is false

A party can't impeach his own witness

you may introduce hearsay evidence to corroborate what is said in ct. especially where the witness is impeached and when a witness is thus impeached, the party may establish his character

What any of the parties has said out of ct may be introduced its in hear say but then all that was said

must be retated, and the Jury are obliged to believe only what goes against the Party

But then the Party must acknowledge the fact not the law on it just for he might be mistaken as to the law and the facts might constitute no crime

So too the Party out of Court must have made the confession voluntarily without any misunderstanding or the confession cant be admitted in civil suits the confession of a party is the best kind of evidence and so too in a criminal suit

But where there are more than one Pts, a confession of one is no confession against the others, for the confession of one of the Parties is not given under oath. and so in a civil the confession of one cant go against him, for one cant commit a civil

A confession in Ch. operates in nothing except in Chancery

An agent confession cannot operate against the principal

1 Vernon 53, 3 Ld Ray 259

Hearsay evidence is admissible concerning the boundaries of land and this the Ld. Hardwicke ifd. was not under oath

Reports of one's death are admissible from abroad. The reports must in general

Pedigree may be proved by hearsay evidence, & there is one case where the hearsay evidence is admissible, where a witness is impeached, here the witness cannot come prepared to prove any thing for himself, but then it is presumed every witness will support his character

When a man is asked concerning the character of another he may not give his own opinion, but only the general opinion, this is a different matter to persuade the evidence of Fame

Where the Religious part of his character is in issue, it may be proved base
In Slander the gen character is put in issue —
But in a bond now to a Courtezan the character is not in issue, the sum is a sure gift
In Cases the witness to a deed are not necessary in Ct, if there is proof of the consideration of the bond, but this is not common law
A man is not forced to give his deposition,
A witness to a deed ought to give his deposition if asked, and if he wants it the witness is out of the jurisdiction
Ct. I Reason some other evidence is admissible

What a man says in "contemplation of death, tho not under oath is good evidence. but the parliament thinks himself near the grave & not others merely. 3 Burr 1244 but the person must be of sound mind at the time

No man is compelled to criminate himself

It has been said a person cant be willing to lose his own Respitude, but this idea is exploded

But when the fact is known & certain then the witness is compelled to declare his own Respitude, as that a woman who has a bastard must tell who is its father. If Prev thinks if the woman is contended, it ought to be prevented but

The woman is compelled

A native innocence is a certain Ward 3 T.R. 77.

Affirmative testimony is said to be better than negative, but this rule depends on the circumstances of the case, sometimes the affir will operate & sometimes the negative

The number of Witnesses

The civil law requires two witnesses but in England no number is specified but now in our law one credible witness is sufficient to satisfy the triers

The quantum of evidence cannot be measured out by any rule, each case stands by itself

1 Cartr 144, 1 Show 108, 2 Ray 221

But to this rule there are exceptions or where the law requires more than one witness

Where a man is tried for perjury, more than one witness must say, else here is only oath to oath

2 Burn 354, 2 Haw 428

So to the said two witnesses are necessary in the action of treason. In Rome, there is no reason for this, except this being a grop crime

In Eng in civil al crimes, two witnesses or circumstances equivalent are necessary

Depositions

This thing is mostly regulated by statuts in dif states

In Eng & C law depositions cant be given in law, but then the Parties could always agree to it & then they were admitted & the Ct would recommend it, this is the ground on which depositions proceed, tis a law of Courtesy

But in Eng a it now makes a deposition good evidence & the opposite party can't object to it

Depositions in Ct are often improved in the Court-

Ct. dont ever try a fact but send down to Ct. of law to try a fact

In criminal cases no deposition is admissible

Per Curiam

Both in Law & Eq. depositions are taken, but it cant be taken of a person within 20 miles, unless sick or is going away. If the deposition is good it cant be rejected

A deposition of a person who becomes insane, legal, the weak, is of person who becomes deaf & dumb not intuitive

It is good, the remedy yet

2 Peters 306, 1 Ch. Pl. 288

Mode of compelling witness to appear.

This is done by a sort of such process as appears in Ct. & if he dont appear he is guilty of contempt of Court

But the witness is not bound to come or stay or speak till his fees are tendered, & then he is, & the Ct will often issue a capias

For contempt of Ct a man can't be imprisoned longer than the session but if the man is ordered to do a thing & he won't, he may then be imprisoned till he will, ipso facto

But for this contempt of a witness the witness is fined, & so imprisoned till the end of the session

And so this witness is liable to be sued by the party & to ms a ground for new trial, if he stood wantonly

But in criminal suits, where a man is bound over, the witnesses may be bound over too, this is not usual but may be done, tho a great grievance but tho necessary

Privileges & Protection from Arrest

Jurors and a wit cannot be arrested while going, staying or returning. The only privilege is that the body cant be imprisoned

But if the witness is with prisoner & the Officer dont know it, he cant take impression, but the man must carry the man before Ct in 2 days he is a witness & the Ct will discharge him

But if the man has a supersedeas & shows it to the Officer, he is then guilty of imprisonment

2 Bref a creditor

The witness must come & go at his own cost but have a proper time

6 Dig tit Testimony

In Con the witness gets his expenses as before he acts out, by a prior attach

[illegible] side in

[illegible] with the 1st Court, the case was

argued three entire days, & decided for the

Defendant

In a case in jurisdiction is not affected among

p 61, see before

Brownlow 65; 1 Ch Cas 101 2 Ch Ca 181

1 Mod 270, 2 Comy 274, 2 Black 1113,

1196, 1 Salk 544, 17 Viner 513

This court protects the man & what he has

until he is necessary for him

The Parte may examine his own witness

first

Written Interrogatories

2 Capital, 1 Principal, 2 Private special

tes, 3 Prim written qs not dependent

1st Burrill

The Power vest of a act of the Legislature

Judgment of a Court & something in of a

private man

The record shall not be brought into

Ct. for Pltff or stationary, copies must

be taken in legal form

10 Sowe 92 6 Lit 209, 677

1 Ld Ray 189, 746,

The Officer or clerk is under oath, & if the

clerk is only pt. made error offenders,

& if pt. makes some, any person with in an

the records are left may under oath give

a copy before some Officer — and the

copy must not be an extract but the

whole record

Records of the Legis are found in the St

Book, Printed by order of the St —

Statutes in News Paper are good if with

a proper certificate seems if not —

Statute must be proved, the Cts are

not supposed to know them & the

laws of other states must if insisted

upon must be taken from a printer
31 authorised to print them by that State
Foreign laws of the State not Statutes are
proved as other facts are
Lex Loci governs in all contracts & if
a foreign law is well known & been
long received, this is sufficient knowledge
of it, with the courts denominated a proper book
and printed
Almanacks are good evidence
Registers of births & deaths & marriages
in bible or elsewhere are good evidence
Records ~~of~~ of Cts can be proved
only by Exemplars.
Marriages & births must be recorded by
ye in Ecc but then not otherwise proved
than by record, if there is none but a dec
ayt be, for a recording is essential to
a dec

A prior verdict between the same parties on the same point may be given in an after suit, tho' not support the subject matter where it becomes, it can be given only in evidence.

But this rule is of little consequence & seldom obtains

Cor. R. 79 & Ther 386, 3 Burr 1244

There are many things called records, that can't be produced by copy, or where the records are not given, for the honour & dignity of the writ & the justice is wanted to be seen, this in the Com Law & the deed is better than a copy —

But a copy of a deed is good in the parties himself has not the deed & so always copies will answer where the original is lost or the party can't obtain it, the is Law

But in Chancery after the first copy, a copy of a deed is good, a title deed is not handed down, but in Eq all the deeds go down

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the man is forced to show only his own deed in the original now all the prior deeds are on record & a copy of them will do

Private writings ~~not~~ spell evidence

if witnesses are infamous, or else he was one on instrumental witness certificates are interested after, the question whether he was then a good witness, from time is.

of witnesses in a position can't be got then the hand writing must be proved as the best evidence the thing as mitigation if the party confesses his subscription no witnesses are necessary

Anno 6 Car, a deed is good if 40 years old without calling in the witnesses

The witnesses very seldom know anything about the delivery of a deed, but there is a deed with three witnesses

in the hands of the grantee & its good evidence, if there appears no suspicions about the matter, for the actual delivery of a deed is seldom witnessed

You can't introduce parol evidence to vary a deed or writing, the said an escrow may be delivered to a third person but never to the trustee himself, it then becomes a deed, notwithstanding the exceptions, but Preston says there is no contradiction for the deed thus given to the trustee or party himself, depends on conditions, the delivery is only formal it is not a real deed

6 Ellis 895, 520, 884

But then that it be an escrow it must be so at the time of his delivery & the two parties must understand it so at the time & the condition must be dependent before the deed is to take effect if after the condition must be in writing the they are good service —

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Whatever is intended at the time to be a delivery of a deed is a good delivery

is admitted

If the intention be to give efficacy to a deed this is declared in the 1 Co. 8 Rep.

In consideration of a deed may be inquired into to show it was illegal but never to show there was no consideration, the question may be inquired into. But if in a deed there appears no consideration on the face of it, the deed is not valid notwithstanding there be a seal, yet may there be shown there is no consideration — but if ~~there no~~ it doth not appear there is no consideration it cannot be said there is none —

Co in 8th 475

Where parties may prove by parol the question of consideration, that their intent may not be injured

If parol contract reduced to writing is not to be proved by the writing until it be lost or destroyed

Where a contract cant be proved but by writing properly made it must be made, for else agen cant be proved but in Con agen may be had without properly so this is not material

Parol cant vary & plain dimimish or destroy any writing

In a note of hand where no consideration is expressed it may be proved by parol that there was a consideration, in Con Common this is not required

Where a contract in writing is so ambiguous as cant be understood, no parol evidence can explain the contract, tho it may find it out

But if there is no ambiguity in the Contract & there is, concerning a fact in the Con parol may be introduced — Tho is where some technical term or unintelligible word is used parol may be introduced to explain

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When the ambiguity arises from the
whole contract or a whole instrument
parol evidence cannot explain, but
it may where there is a wrong description

Law order in what or for evidence

But parol must never be intro-
duced to contradict a writing —
Parol may explain the property or lists
for & the whole intention of the testa-
tor must be adhered by

It is often said that parol may be rebutted
writings in Equity — but in Chancery
parol may only explain the equitable
case or relieve the equity of the case.

The distinction as laid down in Powell
whether writings may be given con-
cerning a written (and in law all writings
are the same in the rule) is this, Parol can't
be given to vary the facts or allega-
tions in the writing or to destroy or alter
the legal effect from the very facts

as they appear in the writing, But it may be given where it doth not at all contradict any thing, to illustrate concerning a fact

[illegible]

[illegible]

Constructive evidence is when it proceeds on a presumption often improved, such evidence is admissible to show that a deed is a mortgage, for this is then an certain fact & fact only from which that deed is presumed to be a mortgage

Corporations

Members of an aforesaid institution or corporation are witnesses in their corporate acts, for their persons only are liable, but if the testimony is to their interest or other mens themselves the evidence is inadmissible. 1 Ven. 351 Feb 92.

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The laws relating to corporations is yet at best confused and unsettled

The Ct will reject when they think the interest is so much as to influence the judgment this is then an exception to the gen rule of interest

Cases this in the Com Law
2 Lev 231

In Com we are all corporations since members are admitted but with the incorporation

Comparison of the Law

There is no ~~[illegible]~~ difference not in criminal & civil suits
1 Bur 642

A man who is acquainted with matters writing is not able to judge in comparison, the in truth he does, this is not correct comparison of words

1 Ch Ca 284, 1 Bur 642, Bac 1 Ch 142

By comparison of hands is meant
comparing it the writing of one instru
ment with another which is known
to be the person writing [illegible]
[illegible] these numbers [illegible]
good ~~[illegible]~~ [illegible] [illegible]

Where one acts to another writ, the
similarity of hand nothing is proved
~~nothing~~ Esp Cas 351
[illegible] no other papers can be given [illegible]
[illegible] to prove whether [illegible] ; for [illegible]
[illegible] are not capable to judge of hand.
Proper witnesses alone can do this
[illegible] Jurors in law cannot [illegible]
[illegible] cannot [illegible] good [illegible]

A skilful man may believe that a
hand is not genuine but imitation.
4 T. Rep 497 But this
question is unsettled & is decided [illegible]
[illegible] was taken

31

is a great & unsettled question, if a witness may by looking at a writing, not, to tell that another writing is his signature, this only by comparison

4 East 117

unsettled is a wilful misstatement that most disgraces him, & Bacon 4 Burr 4h

he ought not to be, tho not with a [illegible] intent of evidence [illegible] fraud, he may — But

Bacon dont like this law

[illegible] says he never would admit [illegible] by fraud or violence

1 (a)

In Com. common reputation and most any thing as also much is sufficient to prove the existence of a justice in a neighboring State, — for a collateral purpose, but not where this man's being justice is the point in issue. — for the jury, a collateral purpose is the taking depositions

And in S & holden at Hartford Sept 1812
it was the unprecedented opinion
of the Ct (Smith & Trumbull, Swift being
absent) that the Statute of Congress
pointing out how the fact of a neigh-
boring State shall be witnessed, pre-
cluded on an article of the constitution
does ~~not~~ relate to Justice Courts as to
others, viz that the clerk shall sign
it, it shall have the seal of the Ct
& of the presiding judge — i.e. to the
judgments of these justice Courts

On the opposite purpose called on as a wit. &
by his antagonist, & bro. 1 John 159, 4 Mass 230 (Sel 5 371
The Wife may be a witness to prove the ill
treatment of her son, to show the cause of
slander, the tis concerning a widow of
her husbands estate — 2 Sel 5 371

31

The admission of a child to tell its story is in all cases matter of course

Macnally E 149

Interest does not exclude a witness always in criminal suits Macnally Ev 53—

31

(living below) (entrails

) — would

Handa

46

47.

31

Slander

4.8

49

Conder

31

Slander

_____, tis slander

53

31

31

but

may

57

31

59

31

61

31

Malicious [illegible]

A [illegible] action lies against [illegible]
a malicious suit [illegible]

[illegible]

[illegible] a court of [illegible] proper jurisdiction
[illegible] [illegible] will
[illegible]

[illegible]

[illegible] reputation of
[illegible]
[illegible] the always
[illegible] from [illegible]
[illegible] 6 [illegible] 1828 [illegible]
[illegible] 1844

3

[illegible]

31

[illegible]

[illegible] is also
[illegible] if the accused with the allegy
committing, incorrect, there only
prima facie evidence, good, there cannot
be probable cause unless the crime is committed
by some body
[illegible] and malice
[illegible] prima facie evi-
[illegible]

[illegible] found a bill
[illegible] for the [illegible] prima facie
[illegible] evidence [illegible]
[illegible] prove the [illegible]
[illegible]

[illegible] be probable cause
that [illegible]
[illegible]

31

[illegible] Pressure gave unexpected aid or prom
[illegible] in that of a longer Tenure

Proceeds

[illegible]
the Passage on the Point

71

31

accidental

death

31

The law indulges the person attainted and his relatives, but not others

[illegible] Parents [illegible] themselves, their Parents and their children [illegible] are [illegible]

[illegible]

collaterally

[illegible]

Hayden v. Hayden

This is only an unliquidated specific offset
for, & this will be damages in this
action & can be answered at once, it
can't be embarrassed by any thing
that occurs from the leading after
argument of Trial
Feb 11

If there are many parties ~~in~~ in the
~~has~~ all are principles - & the
action may be brought against all
or any & recover, & after this one
fair can be brought

If a person is contracts recover
of one of four joint persons, this
one person may recover this
proportion from the three persons
but in order this one person sue
alone & all money is paid out
to him, he can recover one cent
from his co-contractors

Bro. 11 Cobe Rep 6, 2 Str 1232, Bac
Abr 20

Actions concerning Property

1st Replevin

This is a taking one's property by giving security to answer the action or pay the debt

This action arises where there is dis-tress, but there is no distress here in law

Bailiffs for restraining cattle that have broken our close, they do not pay what the Plt says is the injury, he takes his cattle in writ of replevin & gets security, that he will answer the action at the next Court

or do not pay, by giving security to answer the action

74

So where the cattle got through at Pt.
Genesso low or poor.

79 Illustration

[illegible]

81

31

83

31

without reward

[illegible]

[illegible]

West

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

31

85

87

31

89

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 892, [illegible] 871
634, [illegible] 579
[illegible] 1099 [illegible] 638 [illegible] 1058
[illegible]

[illegible]
[illegible]
[illegible] the
ordered, for all are principles
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

[illegible]

3

99. [illegible] not in his profession, he is not liable
[illegible] contract
2 Bam 215, 2 B 359 Ex 601

[illegible] a man complains of a wrong done him
in a [illegible] contract, the general not
liable, [illegible] in [illegible] is [illegible] or [illegible]
[illegible] 3 B Aspn 122, 166, Ex 601
[illegible]

[illegible] a man gives bad wine or meat, whether
in his trade or not, he is liable [illegible]
on the warranty, if not [illegible] for
[illegible], but [illegible] bad
[illegible]
[illegible] 52 1 Roll 90, 95 Ex 601

[illegible]

3

95

[illegible]

[illegible]

[illegible]

[illegible] voluntary

[illegible] his prisoner

[illegible]

[illegible] of the prisoner

[illegible]

[illegible] to [illegible]

[illegible] the case [illegible]

[illegible] no [illegible] for the

[illegible] prisoner

[illegible] are to be [illegible]

[illegible] case

[illegible] 1 Shower 195, 2 Ellis 17

Where the proceeding is on the face of it the sheriff is not liable —

But if the judgment is erroneous & the sheriff knows it let the money to the sheriff can prove the erroneous judgment, the cannot be found liable

But if the judgment is erroneous then the sheriff may recover the money he was obliged to pay out

Co. Lit. 141, 196. 2 Bulst 213

Ne Exeat

[illegible] a prisoner [illegible] officer may [illegible] against them as it stands, but the sheriff complaining only being [illegible] on the case

Where the jury may give more or less than in criminal action —

3 95-97

[illegible]

[illegible]

[illegible]

Professional men [illegible] [illegible] [illegible]

3 9

Trespass

[illegible] a judgment against the owners, they are liable [illegible] 17th 3 Wil 377

[illegible] where [illegible] injury, a [illegible] error in judgment [illegible] consequence [illegible]

[illegible] will [illegible] against a man in office for [illegible] to do his official duty in [illegible] when [illegible] for himself [illegible] from non [illegible] 1 Ch Rep

[illegible] for [illegible] against [illegible] Bailee [illegible] 1 Salk 18

[illegible]

[illegible] 1 [illegible] 23

[illegible] all [illegible]

Respondeat

In all cases where one employs another for any purpose, any injury arising through the negligence of these persons may be recovered against the master

Exception, Pilot masters are not liable for their subalterns, as Port masters would not be either liable for his agents - and they are not his agents but only those of Government, he only appoints them

Cases 17 Cowen 754, Esp 944 and

Government pilots along or passengers & they are liable to the law therein

[illegible] the law against interest, for if of the [illegible]

[illegible] liable to be [illegible] only in the loss of the property by [illegible] or [illegible]

8 Oct. 37

The reason why [illegible] goods in

The tavern, must be a guest, the same
thing that shall be said the innkeeper
here the innkeeper might if he promised
be liable as bailee, but not as tavern
keeper — 6 J 188, Salk 388

A guest may have his goods in his
own room, and if they are stolen by any
body else than his own servants or com
panions, the innkeeper is liable

If the innkeeper tell his guest to lock
his room & he does, the innkeeper is
not liable —

A guest must be one travelling or
at least a tavern, at tavern price

Ld Raym 988 Cobb 3, 5 Mod 90 93

Now is a guest to pay without the law
lets a man alone in the room may
testify for himself, but this principle
would be injurious here, but he must
have proof must by testify himself

[illegible] in the transaction is open for inspection. [illegible] must [illegible] as much [illegible] as they [illegible]

When a [illegible] a common carrier [illegible] things with a [illegible] i.e. where they are as [illegible] they are [illegible] at all [illegible] not liable, gen rule [illegible] must [illegible] them [illegible]

6 C. 189 2 p 688

[illegible] any [illegible] necessary in [illegible] but [illegible]

6 [illegible] 524

The [illegible] is not liable for injury to [illegible] person [illegible] house

[illegible]

[illegible]

All [illegible] a [illegible] [illegible] bill [illegible] bill will be [illegible] other cases,

Mortgage

It

This is the action for all frauds, but offences or warranty may be sued with trespass on case

1 Salk 211, 6 Mod 27

Yelk 20, 1 Bol 90

The is for deliberate misrepresentation, and if so in whose name mortgagee or the Mortgagor is liable

Expression

Fraud consists from the person is intended made or the person the person

General

This maxim is in fact is applicable to intentional omission

L Ray 118 S C 110 PBL 289

DB 103, Sa 211

This action lies for concealment of the for this life 2 Ch 632

Perhaps

A man sell a thing worth nothing in
truth, the seller is now the under
standing one for he has paper money
which am equivalent or consideration
here is a thing on the warranty.

A man [illegible] money, [illegible]
[illegible] it is [illegible] warrant
[illegible]

A man [illegible], not for his own
interest [illegible] 54 [illegible] injury
crime, or [illegible] man [illegible]
[illegible] Bank
[illegible] Bank [illegible] Dispe
[illegible], but [illegible] bankrupt, is [illegible]
[illegible] is, the [illegible]

Perhaps on the case is the action, when
[illegible] destroy the contract, the consid
ation is something [illegible] note [illegible]
[illegible], but they may [illegible] or [illegible]
[illegible] consideration [illegible]

might be [illegible]
this action is the [illegible] if [illegible]
from a [illegible] same [illegible]
consideration

This action lies [illegible]
is violated [illegible]

1 Salk 19. Ld Raym 19. [illegible]

If an alien [illegible] to the state
to carry [illegible] action, the alien [illegible]
Petition to [illegible] the [illegible]
[illegible] & that [illegible] the [illegible]
[illegible] is [illegible] [illegible]
[illegible] 1 Salk 402, Sect 45, 49. 1 Wil 122
But mis. 69. 2 Ld 478.

This action for [illegible] to the [illegible]
Has an action against [illegible] to [illegible]
[illegible]?
[illegible] [illegible] to [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

3 9

[illegible] Inspect

[illegible] merely — but

4 Bar ~~303~~ 2303

[illegible] common law —

Two questions in Pertinent, by the court

1 Can the [illegible] at common law

2 Did not R [illegible] this; and if it

is not [illegible] common law —

Now in the action, if here an officer is [illegible]

[illegible] in his profession —

So for enticing away one servant

[illegible] complaining on [illegible] [illegible]

[illegible]

The action [illegible] is all wrong,

[illegible]

Writ of Attachment

This writ is issued to some ministerial officer, at the instance of a creditor, to do their duty, in order to do with private contract

Attachment, it is a judicial process issued to an officer, directing him to seize property within his jurisdiction, in order to satisfy a claim

[illegible] 1 Pet. 489, 1 Bro. 171, 5 [illegible]
3 Bro. 1207, 4 Ter. 281

So far as [illegible] of the effect of

1 St. 103, 1 Cal. 121, 6 Ser. & R. 147, [illegible] 365

So if a man that has been in the act of delivery of the property of the person must be legally [illegible]

1 [illegible] 103, 1 Pet. 143, 1 [illegible] 511
1 [illegible] 375, 1 Bin. 266, 1 [illegible] 600

This [illegible] is not [illegible] against a [illegible] of a [illegible] authority

Randolph

Jan. 5th, 1815. Did not open Court to notify the bar of any other rule of

Mode of proceeding

Mem. of a civil law

Common law, gave in every instance

The body in writing addressed to the stating all the circumstances of the case, closing with an affidavit — The Ct upon order to the clerk to do his duty or return his reasons for not doing it

If he does not do either, Ct issues a writ of attachment to compel him to do it

If he obeys, but if he returns reasons therefor false, for the Ct does not judge of them, if they appear sufficient the rule is discharged —

But if the return false reasons, the Ct may be tried, the reasons at first cont. required, but the action of trespass or case

Penalties, moreover, must be on oath & if false on oath, perjury will lie

Monday

Statute has made no alteration.

That when the reasons adduced are by the applicant doubted, the Ct may give such a remedy as it deems, at common law, the parties can have a right to have.

Cases D 609, 7 B C 111, 3 Bac 328, 3 Co 199
1 Salk 232, 3, 1 Ld 56, 1 Ld 111, Sid 281
Cart 171, 2 Ray 808 Cases 140

Imprisonment for contempts of Ct is not a continuing thing of nature of Ct, always when it is contumacious the Ct the principle is that of Ct is distinct Bill of costs

2 Without continuance longer, this is always the case when the Ct commanded a thing to be done in the mean time, there he is the Ct will be willing

Petition of Hartford & Pass
Client Transfered

114 – 1

3

9

1. [illegible] complains of illegal imprisonment [illegible]

2. That [illegible] is detained after bail is offered, and that there is no cause on file for the imprisonment, but that it is detained too long

3. That [illegible] is not committed in the proper jail, but in [illegible] other things above [illegible]

[illegible] to the [illegible] of the [illegible]

[illegible] Cont 81, 290

[illegible] Court mandamus [illegible] [illegible] of the judges of the [illegible]

[illegible] Court is not issued where a man is imprisoned after trial, but always [illegible]

[illegible] commanded the Officer to bring the complainant with cause shown in writing

[illegible]

[illegible] discharge him, bail him, or awards [illegible] to prison

1 Salk 350. Ward Rep. 1 Lev 18, [illegible]

The Officer mistakenly [illegible] the defendant was in custody

2 Levin 149

A person [illegible] claim [illegible] right to a person held by another may [illegible]

[illegible] 92, 98 Rep 1354

2 M 982 a father may have his children

1 Bur 606, a woman [illegible]

a father may sue for [illegible]

Vide Bur Rep a curious case

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] under the penalty
of perjury notification that his
[illegible] and he must make affida
[illegible] subject to the penalty of perjury
[illegible] 317 6th L.R.S
[illegible] 3 L.R.S.

[illegible] must be made
[illegible] affirmation
[illegible] improperly brought
[illegible] for his damage

The Case [illegible] it must appear
[illegible] of the county court

[illegible]

[illegible] supreme
[illegible] the petition [illegible] must
[illegible] be heard to [illegible]
[illegible] the [illegible]
[illegible] 317
[illegible] 6th L.R.S

Is it open to a court if it does not
legally in the administration of justice

3 R 6 112

And is on the opening of the court
person or persons [illegible] the
for contempt of court [illegible]
issued against them, and an [illegible]
will lie against them to indemnify
the injured parties

Id 6 113

The mistake of proceeding on the ground
is as follows. The party applying on the
interior to obtain to the business of
time form [illegible] the cause an cause
of his complaint being drawn out at
examen by a violation of some
group disallowed in the law of the king
dom, upon which the matter of the
complaint the writ issue commanding
the judge not to hold the [illegible]
to proceed in the cause, but if it is a doubt
of law [illegible] a rule of court [illegible]

[illegible] at [illegible] and [illegible] prohibition for the present [illegible] it can be ascertained whether it ought to issue or not, their [illegible] prohibition issues, or a rule to show cause which avail the plt to prosecute, according as it shall appear to the ct. [illegible] judgment

[illegible]

[illegible] to the return to sheriff office and [illegible] to [illegible] [illegible]

[illegible] from other [illegible] [illegible] [illegible] [illegible] [illegible] country

[illegible] 43

[illegible] in the county office [illegible] at 6¢ [illegible] per officer [illegible] counts

Forms [illegible] sheriff [illegible] by the people, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] of this [illegible]

[illegible] 341

[illegible] from [illegible] [illegible] [illegible]

than one year, but now in holds his office during pleasure, the 11th section of which is appointed annually

4 Bac 32, 103 Ill 342

In Con. the Sheriffs are appointed by Governor and Council, and during their pleasure they hold their offices

Sylvan 385.

[illegible] in his own county [illegible] to be removed out 3 Mac 235

[illegible] out of his County to [illegible] official act, or, [illegible] removal

Pl [illegible] 17 Bac 235 135

The above [illegible] is a ministerial office [illegible] 64

appoint his deputies, who
may execute any process, if
occasion requires,

The Deputies are to answer
or represent the

[illegible]

The Sheriff's fees are as follows
viz. for executing any process

By law [illegible] in Com. The Sheriff is to
appoint a general deputy
within the [illegible]
be in the County [illegible]
Both may appoint a
each district, the Deputy
in a more particular [illegible]
may any time remove him

Sold 95, 45. [illegible]

[illegible]

[illegible]

[illegible] and even
[illegible] a deputy from an
[illegible]

[illegible] 1st [illegible]
[illegible], for [illegible]
[illegible]

[illegible] 65

[illegible] directly
[illegible] the [illegible] Deputy
[illegible] not in
his [illegible]

[illegible] Defendant
[illegible] for his
[illegible] on a [illegible] public
[illegible] 2 Ch

[illegible] directly to him and
[illegible] his own
[illegible]
[illegible]

[illegible]

[illegible] for [illegible] in the [illegible]

Pailey 237

A covenant to deliver [illegible] [illegible]
[illegible] of a certain [illegible]
not to execute in certain [illegible]
limits in the [illegible]
against them because it [illegible]
only to execute all [illegible]
to him [illegible] 112

Mac Diff [illegible]
[illegible]

4 Bac 442

[illegible]
and consequently [illegible]
to another. [illegible]
[illegible]
aid, [illegible] may not have
voluntary [illegible] but [illegible]
[illegible]
[illegible]

[illegible] Ordinance [illegible] that an
[illegible] by a deputy is assistant is
[illegible] by this is only mentioned
[illegible] as [illegible] when he dies
is [illegible] absent

[illegible] warrant to two per
[illegible] the [illegible] alone [illegible]
[illegible] for his a rule of minister
[illegible] an authority
[illegible] is conferred on
[illegible] this author
[illegible] as well as point
[illegible] 119 [illegible] 11 [illegible] 22
[illegible]
[illegible]
[illegible] and [illegible]
[illegible]
[illegible] by
[illegible] on the [illegible] of
[illegible]

an action on that [illegible]
the Ship is liable [illegible]
parte. The law [illegible]
[illegible]
that he [illegible]
[illegible] 1 Bac 442 [illegible]

The Ship is in [illegible]
[illegible] of this court.

The Question then is [illegible]
and he is [illegible]
[illegible] 6 L. [illegible] 12 [illegible]
Ship [illegible]
Com [illegible]

It is then [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

3

4

1792.

[illegible]

Moreover he says he has never
any case of this kind [illegible]
what shall be done in criminal
cases? from the [illegible]
of the case he would [illegible]
in the good in the [illegible]
[illegible] for. Thus is the [illegible]
of his reasoning [illegible]
is [illegible] that in civil cases
it can be [illegible] for [illegible]
[illegible] inevitably in [illegible] of
be in case civil [illegible]
[illegible] follow that [illegible]
a female [illegible]
[illegible] escape, in [illegible]
[illegible] will [illegible]
[illegible] fail

[illegible]

[illegible]

[illegible] authority over the jail [illegible] is [illegible] protected [illegible] [illegible] the law only [illegible] [illegible] the jail & the sheriff [illegible] [illegible]

[illegible] for the [illegible] of his [illegible]

The [illegible] being a record, it [illegible] in the act of the sheriff; consequently the sheriff is liable for every official act of the [illegible]

4 Bac 441, 2 [illegible] 1382, 1 Ld Ray 312, 2 [illegible] 119, 1 Salk 94, 9 Co 96, 98, 1 Bl 89, 2 [illegible] 158

[illegible] that the sheriff is allowed [illegible] [illegible] for the [illegible] discharge of the [illegible]

4 Bac 441, [illegible] 18

But the Deft is liable only civil-
ly not criminally, in a civil
civil purpose

6 J 310, 334, 2 L 0 1 94 [illegible]
184, [illegible] 185, 1 [illegible] 208

The law never makes a
criminal of a person he shall
create civil liability. It has
therefore been held that if Deft
is liable for the effect act
of his servant he for his private
tort. It shall in not liable

1 Stall 94, 6 Ell 195, 1 [illegible]
146,

Because these actions are not official
they are not the act of the Deft
When therefore he is made
a question whether [illegible]
he can speculate with a
[illegible] account of [illegible]
or B in Deft liable to B in
[illegible]

We think, however, it is not, that the Sheriff is, but in modern authorities seems to prevail that Sheriffs liable

4 Co. at 42 note, Jones 42
2 Mod. 269 & Salk 382,

For the executive negligently, the Sheriff only is liable at Law & the Deputy over to him. If the Deputy omits to serve legal process he is liable only to the Sheriff and the Sheriff is liable to the party injured, the Deputy is not known as a ministerial officer at Law

Comyns 403, 4 Salk 18,
Ld. Raym. 89, 2 Saund 243,
Bac. Dig. 613, 1 Roll Abr. 1

44

[illegible]

[illegible]

But you [illegible] in [illegible]
effectually both Sheriff & Bail are
liable, for non feasance the
Sheriff only is liable

Salk. 18, 6 Mod 173. 143.
3 Mod 321, 6 St 33. 38,
3 Lev 235.

[illegible]
[illegible]
to [illegible]

[illegible]
[illegible]
he is liable for his acts & for
a year & a day —

But if nominal bail be made
on Ca Sa to execute his own process
the Sheriff is not liable, and a rule
the Defendant complain

4 Burr. 1921 & Dist 184

Then rule all apply in com
[illegible] [illegible]

The rights and torts of the Dpt
in law the Dff may be sued for
malfeasance, and so too the
Deputy is liable, for how he is
go this as a public officer
The Sheriff is deemed the servant
of the Dff, if after the death of
the Dff an inferior officer
is appointed the prisoner's escape
no one is liable

Stat 7 Ric 2 c 11 & 4 Geo
445, 6 Eli 3 C 6

The master of the Dff is the sure-
ties of all his officers, and
if I pay an execution there is
no remedy but by re
[illegible]

[illegible]

To have a [illegible] there
[illegible] is removed from
office he is not complete at
for the execution are [illegible]

is an entire thing and having means to make compensate, so too should the inferior officers qualified to serve process

Polk 323, 673, More
552, 133 Ill old 393 392

If the sec. he is a civil officer
by of S. left
of 46 in as well a principal
or executive officer

In Com in this no intent to have
as an executive officer. It will
will be had of as a member
of the judiciary and a judicial
officer within the meaning of
the constitution, the executive
officer is a [illegible]
the [illegible] of his [illegible] It has
merely come [illegible]
[illegible] from a [illegible]

1 Del R 323, 1 Tust 168

A ministerial officer is one
whose duty it is to obey and
execute the lawful orders to the
commander of his superior

1 [illegible] 118.

Also an inferior officer he is
[illegible] such local property
about whom of the person the Staff
is the principal highest executive
officer in the county one county
officer 84 Ky 60 — 384

[illegible] appointed and
commissioned [illegible] who does or
[illegible] breach of trust [illegible]
[illegible] may do he is bound
[illegible] official [illegible]
[illegible] and com
[illegible] in [illegible], and all
[illegible] and [illegible]

For this [illegible] he can command
the posse comitatus, which con-
sists of all persons over 15 years of
age, excepting Peers [illegible] [illegible]
the Sheriff [illegible] [illegible] [illegible] 2
[illegible], [illegible] [illegible]
the power [illegible] 1 Cl.
Com [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ~~[illegible]~~
~~[illegible]~~ ~~[illegible]~~ Sheff [illegible] [illegible]
The Sheff in [illegible] [illegible]
[illegible] bound to assist [illegible]
every legal process [illegible] [illegible]
and on refusal [illegible] [illegible]
fine and imprisonment [illegible]
to a civil suit [illegible] [illegible]
party, [illegible] [illegible] [illegible]
in his office [illegible] [illegible]
cause him [illegible] [illegible] [illegible]
[illegible] [illegible] 1 Bl. C. 344. [illegible] 74
[illegible] 60 [illegible] Com. 38.

In bon a Sheriff or other officer is liable to an action on the case, for not returning a writ in due time, even in Eng. The rule is to command a return in four days and then attachment issues, which is a summary process

Tong 240, 1 Bac 58, 206
3 Bla 291, 2 H B 233, Edj
616

Qu. Sheriff is bound to give a [illegible] on receiving a writ, and on demand any person present may set his hand or seal on a writ.

Ans. This is not carried into execution but in penal proceedings

A Justice of Peace is not bound to send his writ before the levying it, nor the Sheriff to inform of the necessity of the [illegible]

Every one is presumed to know how to be a public officer, and the Deft in the Bond is bound to trust him the [illegible] of Deft resist because the proof is not shown he is not liable for the misdeeds, he states law the contents of it will not be made known, because one object, the court is bound known the [illegible] to bring to Ct

9 Cob 39 6 Pet 65, and 28
8 Pet 187 & L. 504

A special officer must show his warrant before he can be liable in the Penal sum and if, because the Deft is not [illegible] in law [illegible] on the office, and it is not shown [illegible]

[illegible] and use a [illegible]
drawing of a [illegible] to prevent
[illegible] it is not necessary
[illegible] to [illegible] of Oft and then
[illegible] to [illegible] to com-
[illegible]

96. L. 09

[illegible] in the
[illegible] of a lease [illegible]
[illegible] 17. [illegible] com-
[illegible] 6 Ben 453. 2 [illegible] 1 [illegible] 453.
There is a [illegible] in the
[illegible] of 6 Ben, which [illegible] I don't
understand [illegible] of 6 Ben 382 or
[illegible] opinions is made
[illegible] [illegible] [illegible] on an
[illegible] of an [illegible]
[illegible] [illegible] [illegible] call
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]

Constables have the same powers in their towns as sheriffs have in their counties

On civil process in such cases the constable may break the outer door &c. Cole 91, 6 Ellis 907

Comyn 1, Holt 62, Peck 383, 8 Day 162

This is a general rule and in it there is very little common sense - it is said the family ought not to be allowed to retire and rob the

officer

If in such a case the owner does breach an outer door, and arrests the arrest is good. Who the sheriff is may not be known to officer - Cole 92, Ca. t 1 Dane 367, 2 Salk 612 8 C.

This seems to be absurd to say the arrest is good when an officer

against law the will not always discharge the prisoner if it is however discretionary in some manner in the Court to discharge or not, when good cause shown the arrest is not good.

It is notorious we ascertain in the law, what is breaking open a door within in law.

Oct 1882. Maine 178.

16 L. R. 92. 8 Ly 382.

[illegible]

[illegible]

Cowp. 6, 7. Hobt 62. n. 63. Comb.
17, 327. n. 8. Ann. 87.

[illegible]

Cowp. 4. Peter. 12.

[illegible]

Cowp. 93. [illegible]

[illegible]

Comb. 91. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

2 B Rp 823, 824 [illegible]

By St of Chas [illegible] as of Com [illegible]
[illegible] cant be [illegible] on the
[illegible] of Com 370

The person who arrest [illegible] or
[illegible] guilty [illegible] imprison-
ment.

Yet arrest Com [illegible]
[illegible] Com [illegible] or
[illegible] [illegible]
[illegible] [illegible]

1 Bac 4, 6, 65 6, Sell 75

[illegible] arrested [illegible]
[illegible] [illegible]
[illegible] [illegible]
[illegible]

Sell 625, [illegible] 9, 2 3
[illegible] 10 8, 2 Bac 4
[illegible]
[illegible] Com 4 [illegible] of Com [illegible]

will discharge him, the may
bring an action for false imprisonment
[illegible] 5 Mod 95, 6 Mod 95,
[illegible] on the hand
[illegible]
of the [illegible] constructively
due course of law [illegible] of his
liberty [illegible], when he actually
or forcibly [illegible] restrained
[illegible] liberty by the officer
2 Wat 233
[illegible] can read, their
[illegible] a [illegible] legal or
[illegible] 6 [illegible] 3 Ky 50,
[illegible] right [illegible] and
[illegible] arresting an arrest
[illegible] [illegible] man in
[illegible] legal [illegible]
[illegible] [illegible]

8

The rule of lawful authority does not require, that it arrest should always be made under a writ or warrant

4 Bac 450

When it arrest is made by virtue of a writ, it must be the Ct in, if the Ct under whose authority the writ issues, has jurisdiction of the subject matter, this a lawful arrest and if the prisoner escapes, he can escape

Erroneous process is cured & the remedy by due process of law or by a writ of error,

8 Coke 141, e — 1 Ld Ray 99

2 Wil 134, 2 Ry 300, 6 Q 291

This will indemnify the officer in the execution of the process, in a civil suit, and also a civil suit lies

[illegible]

[illegible]

[illegible]

[illegible] date [illegible] as [illegible]
[illegible] of the [illegible], this [illegible]
is not [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible]

[illegible] 1 [illegible], 182 2 [illegible] 8[illegible]
[illegible] [illegible] [illegible]
2 [illegible] 302, – 30[illegible]

[illegible] [illegible] [illegible]
jurisdiction, [illegible]
[illegible] this [illegible], [illegible]
[illegible] on the [illegible] [illegible]
[illegible] [illegible] [illegible]
a well [illegible], [illegible]
Com [illegible] [illegible]
[illegible] for [illegible] [illegible]
[illegible] generally [illegible]
[illegible] jurisdiction [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

3

when the writ is made returnable [illegible] the next
[illegible], it is an informa-
[illegible] but there are fifteen
days [illegible] previous to the
[illegible], and there are not fifteen
days before the first [illegible], it must
be returnable to the next. On
[illegible] days in the period
[illegible] is a Wednesday. But
[illegible] is not made
[illegible] there [illegible]
[illegible] it is actually void, for irreg-
ularity and consequently the
[illegible] is void, therefore [illegible]

[illegible] 241, [illegible] 13, 6 Ellis
1 B. & S. 328, 29, 308, 309
[illegible] does not
[illegible] the [illegible] the

which it is unnecessary to
have an arrest under this au-
thority, if properly obtained
and properly executed is suffi-
cient and lawful. Now there
then may be an escape
Judicial writs must issue from
the Cts to which they are made
returnable, as a "Sci. Fac." in
the principle and law are the
same here as in Engd, the only
difference ~~has~~ is in the different
courts, Cts of law issue the
writs of the realty & personalty —
Cts in Equity issue in Engd that
an officer of the Court having made
an arrest on final process,
cannot delegate his power
to another to hold the person
in his absence, the Court

3

purposes the rule is the same
as to serious wrongs, and that
the officer is not appointed
a sheriff to keep his prisoner
without being guilty of an es-
cape, and immediately, but
after bail or indict is rendered
on the original wrongs
while the prisoner is under
the officer's custody under his pro-
tection and is gone to concealment
[illegible] original state in the same
manner, nearly, as in the right
of the Beef

1 Ashe 22

[illegible] not arrest actually
or constructively made, or, there
[illegible] officer, Bare word
will not constitute an arrest,
there must be an actual

touching of the body, or a power of immediate repeis and a submission to the power. It is not indispensable that there should be an actual touching of the body, for if the officer says to the prisoner, "I arrest and take you into custody," this is sufficient

Salk 78, 5 Mod 79, 2 Ld Raym 1004,
2 Bac 236, Gauch 4, Bell

P 62

If a person arrested the second time was once in the custody of the officer, and a second time is taken to the Office, it is arrest ipso facto on this ca[illegible] p, and if there is an escape this one for [illegible] the first person escape is the [illegible] tiously —

It is [illegible]

[illegible] could obtain in Con, because the mode there is different, in this state the process is [illegible], personal or real property, on the body, and if [illegible] the term should apply to [illegible], it would not be optional to take either process [illegible]

[illegible] the arrest [illegible] made in pursuance [illegible] by writs and authorities [illegible] 1 Ch 24, 6 Cow 62, 2 Dev 236

The arrest to be legal in civil process must be made by the authority of the officer, to whom the writ or warrant was directed, the arrest must be in the custody of the person

[illegible]

[illegible]

[illegible] custody

[illegible] 6, 3 Cobb

44, 8 Ga. 30.

[illegible] the

person [illegible] for [illegible]

the [illegible] [illegible]

[illegible] 1, 15.

The officer has [illegible]

to [illegible] the prisoner [illegible] for

one year [illegible] for one month

and so [illegible]

A voluntary escape is one

that takes place with the

consent of the officer in the

[illegible] or [illegible] having the

prisoner in custody

[illegible] 15

A negligent escape is one

that takes place without

the consent [illegible] officer or

without his knowledge or

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

in his opinion

Of the least indulgence is allowed to the party taken in [illegible] [illegible], [illegible] may be defended, & [illegible] [illegible] on a [illegible] [illegible] must be confined within the [illegible] and [illegible] on, and consequently the enemy out in an escape [illegible] [illegible] of the Russian [illegible] [illegible] of the yard on [illegible] [illegible] [illegible] [illegible] of the [illegible] [illegible] [illegible] [illegible] without [illegible] [illegible] of the yard [illegible] [illegible] [illegible] [illegible] [illegible]

158. 164 The Prison condemned this [illegible] of right. It is more indulgence in the Staff [illegible] of the Prison [illegible] the [illegible] of Warden [illegible] satisfaction [illegible] guilty of [illegible] crime, this is not [illegible] the extreme [illegible] the staff is bound to obey the [illegible]

1 Dev. & B. 2 Bay 238, 239.

3 [illegible] 94, 1 Root 92. [illegible] 137.

But if the staff on this [illegible] ground [illegible] of his liberty, he is [illegible] escape [illegible] the staff

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

escape [illegible] 17

158 ~~186~~

If a person out a prisoner a
[illegible] of the prison, he is
guilty of a misdemeanor escape

State 311, 8 Eq 608.

[illegible] 11 [illegible]
[illegible] I [illegible] a dis
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible] 131, 1820 106

[illegible] 1828

[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

against the liberty of the
press to any person, and
that the law does not
indemnify, but is the
means to hinder or [illegible],
even after the [illegible]
the liberty of the press, [illegible]
may, [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

158 170 [illegible] 1712, [illegible] 1049 [illegible]
7 [illegible] 208 [illegible], [illegible] 432,
[illegible] 124

[illegible]

[illegible]

[illegible]

[illegible] 382 [illegible]
[illegible]

[illegible]

[illegible]

[illegible]

158 172

3

in capacity or in case of a vacancy

6 Mo 23 5-2 808.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] would obtain in Con., be-
cause the mode there is dif-
ferent, in this state the person
is [illegible], personal or re-
[illegible] property, or the body, and if
[illegible] the term should apply to
[illegible] it would not be ope-
rative, ~~actual~~ to take either prop-
erty or body

[illegible] the arrest
[illegible] made in pursuance
[illegible] these words and author-
ities [illegible] 1 Ch. Jur. 64, 2 Bac
Ab. 36

[illegible] in legal or civil
process must be made by the
authority of the officer, to
whom [illegible] warrant
was directed, the [illegible] in
the [illegible] of the person

[illegible]

[illegible]

finement and custody
1 Geo. IV. c. 8 6, 3 Geo. IV
44, 45 Geo. III. 30.

Commitment in case of the
person could not be immediately
the Sheriff is subject to a penalty
[illegible] 1, 15.

The officer has no power to
take the prisoner out of gaol
one year's time for one month
and so [illegible]

A voluntary escape is one
that takes place with the
consent of the officer in the
[illegible] or gaoler having the
prisoner in custody
[illegible] 2, 15

A negligent escape is one
that takes place without
the consent of the officer or
without his knowledge

[illegible] "knowledge, have seen
to be misinformed. It is not
consequently ~~not~~ voluntary
because the officer knows it,
[illegible] force,
[illegible] the jailer
[illegible] he is said
to be voluntary [illegible]
[illegible]
[illegible] the officer [illegible]
[illegible] the person [illegible]
in company with the jailor
[illegible] voluntary
[illegible]
[illegible] where
[illegible] proof
[illegible] person
[illegible] 26
[illegible] been [illegible]

in his opinion

If the least indulgence is
allowed to the [illegible]
in [illegible], the [illegible]
may be [illegible], & [illegible]
son committed on a common
mittimus & must be confined
within the [illegible] of the Pri-
son, and consequently every
act is an escape. [illegible]
except the Prisoners be [illegible]
of the yard or [illegible]
[illegible]
of the [illegible]
the [illegible]
without [illegible]
of the yard [illegible]
[illegible]
[illegible]

158. 164 The Prisoner contended that [illegible] right [illegible] mere [illegible] in the Stiff

[illegible] if the Prisoner [illegible] to have [illegible] of [illegible] satisfaction [illegible] guilty of [illegible], this is not [illegible] the [illegible] between the stiff is bound to obey the [illegible]

1 Sec 15, 2 Ben 238, 239.

3 [illegible] 72, 1 Root 72. [illegible] 137.

[illegible] on the [illegible] liberty, he is [illegible] the [illegible] 12 [illegible]

to bring the prisoner to the
nearest reasonable place in
the most convenient manner
[illegible] 3 Phillips 311, 6 [illegible] 41
399 738 [illegible] 78
66 [illegible] 14

A prisoner [illegible]
when [illegible] on
on final [illegible]
Officers does not [illegible] the
prison is a [illegible] or
convenient [illegible], he is
[illegible] to be [illegible]
[illegible] 172, 1 [illegible] 24

[illegible]
[illegible]
[illegible]
escape [illegible] 11

If Sheriff appoint a prisoner a turnkey of the prison, he is guilty of a voluntary escape.

Hawk 311, & Dy 608.

If the prisoner having the liberty of the prison, shew a disposition to escape, as by having [illegible] before, he must be kept within the walls, & if he is not [illegible] [illegible] & escape, the [illegible] [illegible] a voluntary escape.

[illegible] 131, 1 [illegible] 106

1 [illegible] 185

[illegible] of the escape before [illegible] the [illegible] his discharge [illegible] [illegible] only [illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible]

158 767

In consideration of the Officers
for general, his endorsement
on the record is sufficient evi-
dence of his [illegible] and his
[illegible] of the 1st endorse-
ment [illegible] as "Mean
[illegible] commendation," when it should
have been [illegible]

[illegible] difference of opi-
nion between officers of the Army
[illegible] Special [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

158 170 [illegible] 1029 [illegible]
[illegible] 408 [illegible] 432.
[illegible] 174

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

158 172

[illegible]

6 [illegible] 0130 2808.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

they please, they are not
bound to give the whole
amount claimed. They may
give the whole or none or
any more in the [illegible]

[illegible]

[illegible] are [illegible]
are do not [illegible]
proof,
[illegible] [illegible] that
in any case [illegible]
or final proof [illegible]
the staff should in any [illegible]
part the whole [illegible]
cases. This is the [illegible]
[illegible] of that [illegible]
it cannot be [illegible]

[illegible]

[illegible]

[illegible] proof is necessary before [illegible] it must, the Officer is [illegible] on final proof [illegible] proof is necessary, he should have called out a greater [illegible]

[illegible] 6 [illegible] 16, 6 [illegible] 419, 6 Ellis 873, 4 [illegible] 610, 2 Bac Abt 240 [illegible]

[illegible] is necessary [illegible] the directors, from [illegible] in the [illegible] of proof, is required to have sufficient force [illegible]

[illegible] It is agreed and [illegible] on [illegible] proof [illegible]

[illegible] 611, 4 Ch. R. 82 [illegible]

[illegible] 8 [illegible]

[illegible] I am [illegible] [illegible]

A jail is a place of security & the law will not admit the idea that it cannot resist robbers, rioters &c.

[illegible] of [illegible] when [illegible] is taken the Sheriff may [illegible] with the Sheriff [illegible]

8 [illegible] 316. 339. [illegible] 98
0 [illegible] 116 [illegible] 11
104

[illegible] the [illegible] cases but if he [illegible] the sheriff, he cannot [illegible] this he [illegible] the Sheriff [illegible] the [illegible]

It is laid down in Hale's [illegible] that the Sheriff may in this case, [illegible] but [illegible] laws, [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] recovers in the same action he is liable to the costs.

Hutt v. Hatch 180, 183 Ben

399 Cbl 710. 109

[illegible] liable in cases of [illegible] unlawful, it [illegible] that he is liable on a [illegible] where the prisoner is [illegible] and tried on a Bill [illegible]

[illegible] 2 Bos

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] the
[illegible] or may have
a [illegible] of debt

[illegible] 196, Holt 60, 2 S-[illegible]

[illegible]

3 Bch 6 415, 3 Cohens 52

1 Ind 334, 2 Ind 175

Where if the [illegible] was [illegible]
[illegible], he is guilty of false
imprisonment [illegible]

1 Ind 2 9, 3 Ind
175

A [illegible]
always [illegible] [illegible]
State board [illegible] [illegible]
to [illegible] [illegible] [illegible]
[illegible] case, where if one is [illegible]
[illegible]

1 Bos 6 92, 97, [illegible]
213, 1 Bos [illegible] 130

In [illegible] [illegible] [illegible]
may [illegible] [illegible]
or [illegible] [illegible]
[illegible]

[illegible]

[illegible] 2 Wall. 612, 613, 16 Ban. & Ed. 456,
66 Ch. Ele. 234, 243
[illegible] 3 Cob. 192 [illegible]

[illegible]

[illegible] 1 Bond. 151

[illegible]

[illegible] 113, 6 Wall. 349,
[illegible]

E. Digest 313, 6 Cir. 349

[illegible]

[illegible]

[illegible]

[illegible] after the part
[illegible] the officer
[illegible] the prisoner or till
after the prisoner is convicted
[illegible] 1 Wash. C.C. 138, 1 Hale 590.
2 Hawk. c. 134

But the [illegible] conviction, or the
[illegible], the offence may be
[illegible] a fine and time
imprisonment, or for an indefinite
[illegible]

[illegible] the offence has been
[illegible] I will not
[illegible] in [illegible] the
[illegible] against the accused
[illegible] not [illegible]
[illegible] the [illegible]
in the [illegible] the [illegible]
[illegible] voluntary
[illegible] the offence is com-
[illegible] I shall be not
[illegible] be
[illegible] after

[illegible]

[illegible]

[illegible]

[illegible] to the common
[illegible] of [illegible] and
[illegible] that is the defense
[illegible] instrument be pleaded
[illegible] 126,
[illegible]

[illegible] brought before
[illegible] the [illegible]
[illegible] St.
[illegible] 6 [illegible] 873,
6 [illegible] 308,
[illegible] 12 [illegible] 21,

By [illegible] of a mortgage
[illegible] 1 [illegible]
[illegible]

without being actually [illegible]
imprisonment

[illegible]

[illegible] rule of the [illegible]
[illegible] may be discharged on [illegible]
[illegible] confess, [illegible]
liable [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] prisoner escaped [illegible] in
the [illegible] of the case, [illegible] or
misdemeanant escape, hence the of-
ficer is allowed to retake him
on fresh pursuit and if he [illegible]
takes or voluntarily returns
the [illegible] is discharged [illegible] 1 Oct 1.0.7

But if he escapes [illegible]
beyond the limits of the [illegible] the
[illegible] are on the [illegible]
[illegible] [illegible] 1 Oct 1.0.7

yet when the escape is thus
[illegible] [illegible] remedies are
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

1 Chitty 8

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

abatement. Action on the case
is the only remedy for Defts
[illegible] of [illegible] complained of
[illegible] in abatement
& [illegible] the Sheriff [illegible], that
the writ was not served [illegible]
days which was [illegible]
[illegible] and [illegible] of the
the Sheriff for [illegible]
the Defts may also [illegible]
paper, for [illegible] into Court
to confirm his return
[illegible] Sheriff [illegible]
[illegible] minutes, which
[illegible] found, the Sheriff
[illegible] on the
[illegible]

[illegible] 6th day [illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

200

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

they are in the same [illegible] [illegible]

[illegible] 1 [illegible] 1 [illegible] 124

155, 151, 152, 4 [illegible] 8 [illegible], and [illegible]

481.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

not Law

[illegible] 6 [illegible] 550 6 [illegible]

143 [illegible] 14 [illegible] 1392

[illegible]

[illegible]

[illegible]

not

6 [illegible] 131 [illegible] 30

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Law

[illegible]

[illegible] the Church are [illegible] [illegible]
imposed on the people [illegible] [illegible]
values except [illegible] [illegible] [illegible]
der, [illegible] are [illegible] [illegible]
[illegible] property is [illegible] [illegible] [illegible]
before [illegible] [illegible] [illegible] [illegible]
[illegible] themselves

The Jesuits [illegible] [illegible]
[illegible] [illegible] [illegible] the [illegible]
is not [illegible] [illegible] [illegible]
and [illegible] [illegible] [illegible] [illegible]
[illegible] by [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] shall be [illegible] to [illegible]
[illegible] himself if he can, if he
cannot he may be [illegible] in
service

Act of Com. [illegible]

That the [illegible] be [illegible]
[illegible] paid out of the Town [illegible]
treasury [illegible]
and then the State of the [illegible]
will be [illegible] to reimburse,

[illegible] that [illegible] fees
than the law allows, [illegible]
[illegible] the [illegible] [illegible] for [illegible]
[illegible] discretion of the Court

Act of [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

3

Powers of Chancery

Powers of Chancery

[illegible] jurisdiction to the
Courts in no other Country but Eng
or those who have derived their laws
from her. It is supposed owing to the things
considered through his chancellor
Jones is said to be the peculiar province
of Chancery, this is incorrect, at law there
is a remedy in fraud as in accidents
and mistakes. There is no exclusive
jurisdiction over frauds mistakes, accidents
&c &c.

The province of Ch. 1st to alter the
rigor of C&L law 2d to avoid the ~~[illegible]~~
according to the rules of the letter
of the contract, but the equitable court
does not contrare to law [illegible] with
a different view

3 B Com 429, 10 Mod 1, 2 Atk 109, 1 Ch 22 Ch 29.

Ch has a jurisdiction over trust [illegible]
as Lair 8 Rep 147, 10 Rep 287, 1 Ch 68, 695
3 Atk 177, 1 Ch 4, 3 Rep 1, 2 Atk 203, 1 Ch 16

It is often said that Cts of Chancery are not governed by Precedents, but this now certainly is incorrect

1 Atk 6, 3 Bro 432, 2 Ch Ca 540, 680, 2 Vesy 289, 316, 3 Atk 520

The essential difference between Cts of Law & Equity lies in this

1st In the method of Proof, viz by Deposition

2nd In the mode of trial, viz not by Jury

3rd The Mode of Relief viz specific performance

Cts never issue an execution but if the judgment is not satisfied by, there is a heavy penalty

Cts of Law in Ct is by Deposition & her decisions are as all Ct decisions

3 Bro 382

There are some exceptions recognized in Equity which are not known by the Common law viz Cts law on contracts with infants but may in Equity compel the performance by conveyance first is a bare person who then conveys to the infant

So a widow the guardian of a child

daughter after receiving rents of the doing property to her own use for ten years tells a young man courting the daughter, that she should be married till he consents to release her from all her mother rents, he spends the money in her mother's great influence over the daughter. In than this release is invalid but in law valid but if does not be subject of law court suffer the fraud in this case as well as Chancery to avoid the release

It is trifling to the party is compelled to tell all the reasons & refusal to speak is a confession of the fact.

Advantage taken of undue persuasion or undue influence about a trifling harm often is taken notice of in Eq. But law stops short & will not ~~[illegible]~~ take notice of a man's unless p. be fear of [illegible] cut his throat &c. [illegible]

For the relief in Eq. vide Lath 1772 Bro. 46. 1 Ch. 258.

Parties in Eq are often left where are

2 Ver. 486 1 Ch. 137 89. 93 2 Ch. 2.3.4. 1.2. 97

2 Rawle 6 7

Parties & Indemnity

There a thing in law, and we are without formalities, in the substantial thing will be done without the form

2 Lev 6 on 17, 2 Vern 187, 2 Ch Ca 243, 1 Ch Ca 6, 215 2 Ver 271, 3 Atk 428.

Ch exercises it with rely over persons subject matter within the jurisdiction

2 Ver 6 on pl 2 Vern 494

1 Ver 201

There have will indemnify to each contract concerning real property Chancery will give specific performance —

Ch will never accept an action for third person who knows not the circumstances in the contract of performance 1 Ch Ca 214 1 Ver 14

2 Vern 17 Atk 1735 p 109, 1 P Wms 229.

Ch will compel a man to convey a mistake in the consideration

is proper & the contract is good — then on the contract law will give damages. As where a man inadvertently omits to seal a deed, law wont admit parol evidence the contract will Ch shall compell the man to fix a seal for Ch considers the man as a trustee and forces him to give security

2 Pr Wms 242, 1 Ch Cas 15, 21 Car 6 14, 17 25-2

Ch wont interfere if remedy can be obtained at law, i.e. Ch wont give the like judgment with law —

The relief of Ch gen extends only to real property. Ch unwilling to touch personal property, for damages are gen adequate for personal property, but there are the cases of jewels, pictures, which Ch wont hate

2 Car 21, 1 Ves 44, 1 Pr Wms 71 2 Atk 95, 1 Atk 385

Where one of the parties may come into chancery the other may. This is therefore

he could not, because he may recover in law, Ch will not award money but never but specific performance
4 Paw 219

In Ch a man can never recover till he has completely performed on his part for a man must do equity before he asks for it —
1 Ibid 384. 2 Paw 17

often where damage can't be adequate to the value of personal property Ch will restore the article — and all property is valued in damages at what it was worth at the time of the completion of the contract
2 Paw 217. 32. 2 Term 384

1 Paw 208 1 Term 217 1 Galis 231

For a man retracts what rules words the it forbidden him to do in in that manner, Ch will or take if wrong what ought be done, & the other man can't be off the bargain
1 Ibid 207.

So when by the act of God or inevitable accident a man can't perform the contract he will decree as much as can be done

2 Peth 254. 1 Paw 448. 2 Dr 84

Plow 284

A. de Ff. 11 Estimation

If the matter of agreement comes upon the ct. wont interfere, if not, they will, for a penalty is given to enforce the contract, but where the penalty appears between the parties to be liquidate damages the whole penalty is forfeited, for men may agree there was loss at proper time & settle agreed by one or two claim

2 Burrow 82 341 1 Bl Rep 576.

If land or estate is given to a man for life & his heirs after him the grant to the man in fee & can well enter it, but if not being so it must decree a life estate to the man & to the heirs in the first the man inherits as heir of the estate, but in the last he could only have the usufruct of it

3 Atk 349, 3 Br Rep 5-87. 2 Dr 444, 5 Dr 299 320, 4 Dr 782, 2 Ch 4, 2 Paw 41, 1 Bl Rep 123, 2 Dr 346.

[illegible]

[illegible] to do, is [illegible] extraordinary, as done at the time of the agreement or as it may be said that time it ought to have been done

A 1 P Wms 61, 1 Atk 372, 2 Cowp 719, 232, 1 Bel [illegible]

But the above rule is invalid if any fraud will arise from it

2 Ch Cas 60, 3 Atk 395, 1 Bel 359

1 P Wms 274, 2 Ves 429

If the contract was originally mutual & equal, the a subsequent event of the mutuality & equality Chancery will compel a specific performance if the contract was originally good, for it considers that done that was once agreed to be done. If the contract was once unequal it must now expire it, then an equitable [illegible] remedy

2 Brown Ch Cas 415, Pin Ch 196

2 Peere 132, 1 Ch Ca 261, 1 Brown Ch 156
2 P Wms 280, 2 Bro Ch 69, 76

In ch money contracted to be paid for
lands is the land & happens on real estate
idem in Eng

1 P Wms 483 3 P Wms 221

1 Ch 413 415, 1 Peere 183 436

But such money such as these contracts
upon account or not once material
1 P Wms 91, 2 Atk 281, 3 Atk 383, 2 Ch Cas
123, 1 Bro Ch 280, 2 Peere 12, 72, 1 Peere 227

Equity will enforce not an inquiry
into the quantum of consideration
where the consideration is only enough
to make the contract binding & will
give only nominal damages but
Ch will not decree the specific contract
or in other cases will give
1 Atk 480, 1 Atk 11, 1 Ch Ca 241, 2 Ch Ca
230 244 only nominal damages, in
how [illegible]
[illegible]
damages will be nominal, equity [illegible]

The Power of Ch to rescind Contracts

Ch often rescindings contracts that are not validity in the eye law

Ch never rescind contrary in will shall be done equality to the Parties, for whatever was equity, must be equity

Ch will rescind contracts for mistakes concerning a thing, which is the object of the contract — the water spring in Pensilvania — Grove of Chestnuts

The often said that Ch will relieve against mistakes only of the law, if it is in law, Ch will relieve against mistakes & facts in matters of fact & law if it Ch must be convinced the man in covenant — the surety says a bond got under duress — he might have prevented it — to abscond in time

Mr. Ch 22, 1 Ves. 122, 400.

[illegible]

But if money is paid by mistake
law will restore it & one need not
go to Ch

When Ch considers a thing as done that
was once capable of being done tho
now it is impossible, it considers the
contract rights as executed at the time
of the agreement & the property which
each had as the property of the other
But then where one is forced to deliver
on his part & the other compel his prom
ise is not executed. In one case delivery
may be the other in law for not
delivering on his part.

Gen where Ch would decree specific
performance, law would give dam
ages, for on each side damages
will always be given if the impossi
bility of that party who has not performed
cd, arises since the time when
he ought to have performed.
So Gen law will give damages
where Ch would decree specific

performance, for where ob[illegible] a contract ought to [illegible] performed Law [illegible] and in law the party may [illegible] on the agreement [illegible] or performance [illegible] his agreement is a good [illegible] often the party would [illegible] have a cross action

There is a difference in the [illegible] or real property which is an approved warranty or [illegible] in the on failure good reason to rescind the contract — and the other there is a sure guarantee in per real property too

There are many [illegible] cases [illegible] it is in law he may get the [illegible] a judgment against the [illegible] of law, at know that he has been [illegible] and to show that the land of his was obtained by deceit, fraud or [illegible]

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That it will wait till B is dead, B here may bring it imme-diately, before B's death and have thus bound [illegible]

Marriage is a good consideration [illegible] a man in writing promises be-fore marriage a settlement on his wife, this contract is good for marriage is a good [illegible]

Paul makes this distinction, that in Equity if a man has done any part of his contract so as to take it out of Statute, the ~~other~~ Court perform the rest, the other must be compelled to a specific performance, but where the party has not been able to do ~~nothing~~ any [illegible] [illegible] can [illegible] [illegible] [illegible] [illegible]

[illegible] Law 28. [illegible] whether the [illegible] man is permitted [illegible] [illegible] Statute in part [illegible]

In matters of fraud Ch has jurisdiction, but this position is not universally true — where there is fraud in contracts concerning real property Ch will relieve, but fraud in personal property is rarely recognized in Ch, for law has adequate remedy.

"Fraud has been used to mislead a man out of his debt & then again to draw him back, & Pearce 251 "non-calls this pebbles & wheels not reason but cast water decided — for they would be just if the man had not invented it himself

Fr law that ct will secure relief or contract for indemnity but they will not in redemption of the small price out of evidence there has been an imposition, fraud, mistake — the fraud leads money to a friend & then deserves his money. The man is forced to give up his land, worth remained from the debt

Ch will rescind a contract always where advantage has been taken of circumstances [illegible] 3 Ch 1 Ch Cas 19, 1 Ch 62

[illegible] principal, all [illegible] fraud

Or rescind contracts made by persons in liquor, till authorities agree to [illegible] the rescission of the other's drunk, but [illegible], if the person gained his drunk & then sued him, Or sued in disaffirming contract, this is collusive fraud in this last case the [illegible] is [illegible]

Ch will rescind contracts where fraud is practised on third persons, and [illegible] not [illegible] as in this contract, the one [illegible] a [illegible] a [illegible] — [illegible] a bond to [illegible] money back another [illegible] the [illegible] not [illegible]

Pl [illegible] 6, 1 Ves 175

So where contracts are obtained [illegible] they should be set aside Ch, & in [illegible] they are not void, if obtained [illegible]

Ch will regard an fear, if from the only, the contract is made against and will regard only duress of imprisonment to destroy a contract

But a reasonable fear or a friend counsel is not in Ch fear, it must be the ch

1 P Wms 118, 630, 1 Bro in Ch 309

2 Ca 150 187 204, 3 P Wms 258

Instances of losing our property limb or liberty —

Ch will set aside an illegal contract

There in case must be proved by evidence. but in Ch, necessity may be proved in opposition to a man's conscience, but will only cut off the surplus interest & dont destroy the contract for consideration must do justice herself

1 Atk 399

But a contract in the case compell a man to do that that will expose him to prosecution, an usury, & so long as he has time cannot be said to act under

Rath

Q. Mill. 347. Collins v. Blantern creation concerning illegal contracts

If a cont. is against law or sense, the will not stand

1st Marriage Brokage contracts are in the wholly void

2d Cont. to encourage illegal contracts are void in the

3 P. Wms. 31. 2 Ven. 341, 2 Str. 814 2 Atk. 354.

But all concerning lands must be in writing, But in the 1st one of the parties has ~~performed~~ been benefited by the parol contract or the contract ~~illegal~~ partly executed, the other partly remains performed — for where one party has done a part the other ought to be compelled in the other party is not done his part

The law will never aid contracts where there has been fraud in the consideration but only convenant but the will of stand contracts where the consideration is a consideration.

Where a penalty is the alternative of a certain performance on the instrument, often Ch will still decree specific performance, for where penalties are the estimated damages of the parties this penalty is a good alternative, but where they appear to be given only to enforce the performance & it appears the parties had this in contemplation, Ch will still decree specific performance

Bond 13 &

Ch [illegible] a bond & penalty [illegible] there were no [illegible] on the instrument for every breach [illegible] were omitted for Ch to relieve against penalties there must be to be paid & received as penalty, Ch will decree the penalty to the real debt & interest & nothing else

Where a bond is given to be void there the damages are presumptive

an the port cont. shew any, distinct or particular kind of damage, but it will generally give the penalty if this appears to be a reasonable damage. Penalties are liquidated and the law adopts them.

That when either the act or penalty are optional, it really is penalty but proper damages.

Law a penalty given to secure a certain performance is really a penalty but a fair damage, the payment of the penalty is not an absolute bond 2 Term 310. 289 Betts 5th & section 112.

Often a penalty is given to a Covenant and the action may be brought on the Covenant or on the penalty and then the penalty will be thrown down to the real damages, and if it seems the penalty are given damages then it will be recovered, for the parties may be entitled their own damages

Where installments are allowed in bond of $10,000, more payments of $1,000 for ten years — the bond will be relied on the first breach, but only $1,000 & interest will be recovered, & the $1,000 has once received, yet a new judgment may issue if in lieu for the other installments to be proper issue

2 Co 17 10 Ch. 2 317 2 Ch Ca 78

6 Co in Ch 419, 2 Cow 214

When Ch commands a man to act on forfeiture of a bond or penalty, the penalty cannot be chancered down — but then the man must have the power of obeying the Ct of Ch. and Ch will relieve against the penalty if circumstances have changed but Ch won't change the penal sum — the penalties of Ch in Com are recovered in law and in most places in Ch itself

If the law is money is paid at the time, the mortgage is gone forever the heaven & earth come together, & the [illegible]

But the very these contracts are in
Nature & reason so unlawful as a Trust
for when the is found in usury & grind with
the mortgage, but the equity of re-
demption is limited in time, 15 years
in Con. 20 in Eng. and may be defeated by
a foreclosure which the Court did to grant
it,

In hard interest upon interest (only
otherwise expressly) is lawful & just
said goes into the principle —
But equity thinking this a rapid
& immediately destruction of property
not usury or unjust, will interfere,
if the party at the time he borrows agrees
to pay compound interest, but if the
agree after the interest is thus accru-
ulated to pay it, the court interfere
Among most rules in relation usury, interest & usurious
in hard the be will in reality, the contract
The given inconvenience to stay waste
and because the man must die generally

redress personally in law, but often when
action of waste would lie at law, the will
upon injunction to stay waste,
action of waste would lie against a
Trustee but the cy a trustee should
abuse his trust

Tenant in tail after possibility of
issue extinct is not liable to an action for
waste, but should not cut any timber
that is permanent
3 Bl 227. 2 Ch ca 69 2 Atk 94

2 Ch 251

Action of waste would lie for a remain
der man if a state has intervened,
but the will partition waste

Action of waste can be brought
only by a man holding in fee

Upon when a life estate is granted
without impeachment of waste
the injunction against any
malicious or wanton waste, the

above provision covers no malicious waste but any other even pecuniary or partial waste is covered

2 Show 189. 2 c. ~~Ven~~ Vern 718

2 c. Ch 210. 2 B Ch Cas 89

Ch upon injunction against Land: no always where Law contingent redress & Ch can do the party request, & this injunction is issued any time before the money is paid to the party — as a bond has not where one was sued —

1 Vern 489

Before the 27 Geo III, authors had no security over their works but the injunction of Ch — Burr 2417 —

There is no security at C Law, but only in the 27 Geo III & the injunction of Ch

There has been but one decision on the question & three against 4 under there was no remedy at C Law —

the most proper persons who have
stolen in expectance to be informed
upon, from their right as fellow
citizens and neighbors and
to convey as well if in courses, the
will recommend revise if have done
under any apprehension of compul-
sion, but the money and interest must
be restored in such case. Part 183

Application for payment of legacies
in Eng & many parts of this country
must be made in the, & law courts
in England where only, to be
with equity.

The executor is more trustee &
must pay first, creditors then leg-
atees, the will comprise the executor
to pay the legacies. In case legacies
are made for his land & stock in
the executor is no trustee or mere
property, but only a personal

But if the testator devises the rest of real property, the executor is then the trustee for the raised & will make him a bare trustee, or the estate he has expired in 1 P Wms 522

Probate gives the executor power only over personal property

2 P Wms 211, 13 Ves 542, 1 Atkins 471 2 Ch 639

3 Atk 234

Ch will often compel a sale of the equity of redemption. In Eng an equity of redemption may be sold in day the debts of the deceased

at common law, Personal property only could go to pay testator's debts but now personal & real property are liable

[illegible] at common law taking out real property from debts that ought to have been satisfied out of the personal prop.

Where ~~one~~ three persons hold joint parts
for the use of another, the will can
call the third person to use his trust
according to directions. ~~but~~ if this
trustee sells his land in a mere
friendly partitioner, he avoids his
the court regard fraudulent trusts &
if a man makes over his lands for
awhile, to defraud his creditors or
were to have it out of their hands awhile
trusting to his enterprize to settle
by & by, & he cant get it back

2 Ch Cas 683

Ch dis. comp. spec to a Ch. Purch.
but in Eq. Ch settle this themselves
or appoint a person to do it

Ch. will construe a man to own
as an improper he ought not to
have gotten 297. 2 Ath 307, 1 Ch Ca 439

Formerly a man in his debts

If the instrument was lost, for perhaps a new oyer would be required but the rule now regard the copy if it can be found

[illegible] 17 Ves 392, 2 Atk 13, 1 Bro Ch 218, 3 Ch Rep 151

Ch compel performance, Cohoneners to make partition

Law cannot compell a man to deliver up a paper but when a witness ever, but Ch can Ch will relieve against mistakes, alterations, interlineations, but if the wrong Ch is certain, then there must be really a fraud — but if those words are used the portion meant should be the thing now written in their meaning, Ch wont relieve, ~~but~~ thus where there is one witness it called the portion meant to have but one, Ch dont interfere, but if they did. Ch will

[illegible] 2 Atk

[illegible] will commit a more [illegible]
his deed [illegible] proper [illegible]
unless it has been recorded.

[illegible] protection [illegible] affected [illegible]
not recorded, if a mere [illegible]
[illegible] only
[illegible]
[illegible]

[illegible] a [illegible] of [illegible]
[illegible] [illegible]
[illegible]

[illegible] but
[illegible] will
[illegible] the Executor

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Contracts

In every contract there must be two or more parties. There are other kinds executory & executory. Consideration is always necessary on executory contract, but not to an executed one. Action to creditor to maintain contract one express or implied, justice is the ground of an implied contract, or where a man turns an infant out of doors without support here the infant will charge the man, but where a man pays another debt he is entitled to no action as the creditor ought to sue the debtor this hypothesis more interesting curious. — There are some contracts good at law that Equity will invalidate, tho the latter station

the same principle with the
[illegible] but extends them further
the a general rule that the contract
of a person [illegible] of reason will
not be established, but arrunk=
[illegible] of invalidation
for the [illegible] misconduct
yet often relief may be had in such
cases in Eq because one man has
obtained an undue advantage
of another — Eq will relieve a=
gainst penalties unless they
are specific damages. Contracts
may be set aside for several reasons
1st where there is an inadequa=
cy in the contractor 2d where they
are founded on an error. 3d mis=
apprehension being the sine qua non
of the contract 3d where they are
impossible to be performed 4th
Lapse of time — the consequence but

they must be naturally not or actually impossible or from an incapacity in the contractor & when either the contract or consideration are illegal

The first division. Contracts which are void arise from some incapacity in the contractors or else from a privilege that exempts him from responsibility

Pon Con 11 4 Coke 125

The contracts [illegible] to contract & this power must be exercised voluntarily. Infants & lunatics are restrained for moral incapacity from the contract or absolutely void.

Though formerly held that they might take any advantage of their incapacity

6 El 2 398 Cro 12 622 4 Coke 123 Pon Con 11. Ill 41. Lau 3 6 El 2 318

If [illegible] in establishing in the
bar [illegible] agreement to the division
of all [illegible] lawyers & would not
be [illegible] probably should
be an accur. But the difficulty
would be to Gordon the Peers
[illegible] and to plead this dis
ability

1 Vent 214 [illegible] 170, 1 Str 119 Eq
Cas 279 1 Ch Cases 188, 2 Vern 728
3 Atkins 246 1 P. Wms 316 2 Lewin 214
1 Vent 191 1 Bro Ch 119

But there is no more danger of
a person admitting the idiot to
plead than admitting his guar-
dian 3 Br Ch 31 1 Ves 19 1 Ibl 62 3 Br Ch 231.

If the person got the other drunk
& then bargained this is evidence
of fraud. But if he found him
drunk & then bargains, the Plaintiff
has been no question, if Plaintiff

This advantage is full evidence of fraud

1 Vern 19.

There is another class of people of weak understanding who are protected by law, for he will suffer no fraud

2 Vern 118. 2 Ch Cas 210 Hil 33 3 Mod 96 Hill 107 3 Ch 110 111 2 Ch 118 1 Ch Ca 290 1 Vern 12 2 Ch 408 2 Ch 372 3 Ch 67

The next class of persons not bound by their contract are infants, who are bound only for necessaries, for tho' being incapacitated to contract, for necessaries he bound by their contracts, hence when he has any person on speculation who provides for him in contract contract, for even in contract for necessaries if he is not bound by the terms of the contract, he must only pay the value

Infants may bind themselves by such contracts relating to acts, as the law considers beneficial to them, & to be by such acts as they are competent to perform, the minors as Executors & Marriage contracts

The general rule is that all other contracts of Infants may be rescinded at the pleasure of the Infant if as the contract is as completely avoided as if it had never been made in the instance of Trover, both the Infant & the adult may recover back any property which has been transferred under it. As if an Infant buys a horse & afterwards rescinds the contract & recovers back the horse purchase money, the adult may maintain against the Infant not in action for the contract

which has been insisted, but with
on the implied one which arises
from the Infant's receiving
money for his use, but the con-
tracts are voidable not void, with
out it is necessary to consider them
as void for the Infant's interest

The next class of incapacitated persons
are Feme Covert, whose contracts
are void not merely voidable
This disability is only commensu-
rate with the reasons which in-
fluence it, which are of two kinds
viz her want of protection, and the co-
ercion under which she labours
from her husband on the one side
and the interest of the husband
which must be affected on the
other, These reasons are consequen-
tly obviated where she has proper-
ty to her separate use, and lives
separate from her husband, un-
der articles of separation, wherein

he has renounced his marital rights, & the degree of renunciation of those rights in the articles will ever regulate the wife's liability

[illegible] partially disa the contract is thereby whether friends or enemies

6 Co. 1 2 Inst 309 1 Saund 435 3 Mod 94.
3 Salk 29 7 Bore 176 7 Rep 2335

The disabilities as to both kinds to real estate & the latter cont of a personal contract, but the former on. The question has never been settled whether the contracts of an alien enemy, the incapacity, invalid during the war, are only so far morally restrained as is removed by the return of peace. There is in the affirmative

1 Bos & Pul 126, 1 East 187 Campbell

A gross mistake or error by either party to the contract will be sufficient to avoid it. This principle does not extend to the compromise of a doubtful right which is a matter are always meritorious & meet the sanction of the law, tho there must be a misapprehension on the side of one party or the other who is ignorant of the right which the law would establish

36 W 316

But where the right is ascertained vested in one of the parties, whose gross ignorance render him unconscious of this misapprehension would invalidate the contract, for the right was never doubtful in the sense in which the law uses that term. The common sense of reasoning then is the application to it, but the consequence, can be law of Law

When stands the principle of misrepresentation will avoid the contract where the goods bought were not found to be sound & equal price paid for them —

Another principle for avoiding contracts is the rule of natural and moral impossibility but this impossibility must exist in the nature of the thing contracted and not arise from the circumstances of the contracting party. A first contract with B for the purchase of the land at in order to convey to B this lot then purchased in exchange for one with B. now the B won't sell the lot till A is liable for damages 8 B & Cres 117, 2 L Ray 1164, 6 Mod 305

The conditions which are either

impossible at the time or become so subsequently are void as an executed contract, the contract, and benefits as executory are, the condition be possible at the time but become impossible afterwards the contract is void

6 Lit 265 Talk 172

Pont against law are generally void at law & in Eq. but not only void but also to sue for an unlawful act, but also to sue for an unlawful act that is done or to be done are void and this principle extends to all contracts which are mala prohibita or against public morals as well as those which have a fraudulent object in view, or where they are under-hand or of public nuisance

Of Illegal Contracts one kind consists in reserving too much

on the contract, the action in taking too much. The penalty is forfeiture of the excess & the contract avoided in reserving too much & both are done, both the consequences follow. When a lender lends on 100 on legal interest, leaves it to the honor & liberality of the borrower to pay any additional compensation he there is no obligation to pay more yet consequently may be made a question whether usurious or not, & if allowed in an other way it is usurious. Interest cant be reserved on interest in a contract tho if his money is paid it may be added to the principle and then made to bear interest in a new contract, this reservation never dont render the contract usurious but the additional interest cant be recovered

If a note is given for years, viz. the interest cont. be recovered where the principle — unless a contract in the bon, where compound interest is reserved, the promisor is not obliged to pay it, but if he does, the taking by the other party does not subject him to the penalty —

Interest is to be paid annually unless otherwise expressed, but if a note is given to be paid in six months the 6th at sers. the [illegible] shall for that time, want be usury but be now allowed — [illegible] portional interest must now always be paid, neither is it usury to take the interest in income —

Where the object is to conceal usury on usurious interest on bonds made to cover it & are set aside 6 Term 509

a simple contract for 6 per cent & if this be not paid at the end of the year, then 12 per cent all is not usurious, but a penalty, which will be relieved against, because the party may divest himself of the responsibility for the additional interest, by complying with his engagements at the time & the intention of the parties was not usurious

Ewer & Jang case of Bromley v Smith, Cowp 191 [illegible] 13, [illegible] 2 1 Wils 2 [illegible] 2 Dev 7, [illegible] 121, [illegible] 1 Cowp 112. 778. 793. 2 Burr 715. 991 6 [illegible] 47, 5 Burr 2017

A corrupt obligation or contract in the hands of an assignee is subject to the same equity in his hands as in the assignors, although the promisor has enabled the assignor to impose upon the assignee, because it is a contract by which the ~~assignor~~ promisor was

never bound, but if when it is presented him for payment, he does not disavow it or deny its goodness, but prays for extension of time, he then makes a new contract with a fresh one which is binding

5 Co 70 6 J 508, 269, 6 Eliz 648, 741, 6 J 253, 487, Barth 68, 2 Bur 704, 1 Show 8, Hard 518, 1 Vern or Verg 164, 3 Mil 390

When a good & a bad contract are joined in the same instrument, the instrument is void, tho the good on may after separation be recovered upon

6 J 508, Moore 641, Dt 1242

If a man pay more than six per cent, he can recover the overplus, tho only all usurious contracts are void, but all securities whether of real estate or otherwise

If I make an usurious contract and give B as security, & B pay the contract he can support an action on the indemnifying contract which I made to him when he became surety, altho it were to indemnify him against a void and illegal obligation —

By the examination of the Parties under oath in Ch is meant that the Deft may be called upon to answer to the bill, to disclose the trust, but the Deft may not be evidence in his own cause, he however may be called upon in the same manner as it Deft to acknowledge the Defts matter of excuse

It has been said that if Judgt be rendered to pay the whole note on usurious interest it must be paid, but otherwise, subsequent evidence destroys the former judgment & it need not be paid

2 St 1155, Doug 223, 3 Atk 250 2 Bl Rep 727, 6 Ellis 20, 1 Sound 294.

An usurious contract may be avoided in the hands of the agent as well as in the hands of the promisee

Gaming contracts are void at the law statutes on the subject only render void all securities, but not the contracts themselves, but money sent for gaming is not within the the statute & such a contract & also the security is good except rendered otherwise by it

Where the parties are pari delicto the law will not help one to recover money back from the other Yet loses money to B & pays him at the cont recover it

2 Bur 1077, 1 Vesey 752.

Sale by A to convey a title to land which is occupied on

Name by B is absolutely void
for his mistake titles are not alien=
able without the profession
Plowd 80, 88.

Illegal executory contract that
becomes illegal is void, but the
consideration money may be re=
covered back

Im contracts are void as against
sound policy that, which restrains
a man from following his profes=
sion Blet 206, Bon 6 103, 11 Coke 53,

But if the restriction be only for
a particular place his trade, otherwise
for a limited time
6 J 596,

A bond given to secure this con
tract, may be inquired of the Pl
must prove a valuable con=
sideration, this is merely in to

this case
2 Str 739, 16 W 181, 192. Moore 115, 242

If a Jailor supplies his prisoner, with provisions, the prisoner is liable on an implied contract, and also the prisoner binds himself to remain in prison till he shall satisfy the Jailer's debt, the bond is void, for no man shall divest himself of his liberty
10 Mod 159, 16 W 195 Cowp 62, 1 Co Ent 100,

Lo tos marriage brokage contracts may be relieved against in Eq, the no in law 16 h 887, 8 Cas 75
Also the contracts of heirs for their expectances are corrupt.
~~16 h 887, 8 Cas 76~~, 1 Chan 75, 2 Ch 12, 16 W 816, but if these contracts are executed Eq seldom relieves, if the heir in ward knowing he was not bound Eq won't relieve, but if he thought he was bound Eq will relieve

[illegible] 22 294 1 Wils 812, 1 Bro 1, 2 Vezy 189.

A contract for unlawful acts are void so likewise bond to indemnify against unlawful acts, except they were not nor could have been known to be unlawful by the doer, & done at the instance of the promisor, as if A arrest a man illegally & tells a bow-bearer that tis a lawful arrest & he is requested to detain him till (the A) can find an officer, the man arrested may sue the bowbearer

[illegible] Wet

67652

Of the Subjects of Contracts

There is a distinction between them when they are executed & executory. In the first place no person can convey by contract executed any thing in which he has not

At the time either an actual or potential possession interest, if it should lease to B a farm in which he had no interest & afterwards sue him for rent, B may plead nil habuit in tenemento, except where the lease was by indenture which operates on estoppel on the lessee, likewise if A sell a horse to B, on condition to be paid in six months, not cannot sell the horse a second time, by the probability that the non performance will revest the horse.

Plow 232, Hob 132, 1 Ins 43 pl. 1 Co 152
3 Levin 146, 1 Ins 221, Eq 233, 1 Co 173
St 817, 7 Rep 537, Plowd 532.

An inchoate title can be granted
Thus a contingent remainder can be granted before it vests at Law but it may descend, be devised, sign Eq assigned because connected with an interest Dyer 221, 47 Rep 248, 1 Co 135

Fearne 244, 4 B 30, 3 Ves 88, 1 Ibl 202.

209

But what one potentially possesses he may assign, as a future crop of a farm, this is a potential interest an not an actual one, because it is incident to the farm itself, and may be granted by contract executed

Hob 132, 1 Bos & Pul 156.

Likewise he may grant all the wood which this sheep will yield for many years, tho he can't grant the wood he shall afterwards purchase ——

An executory contract may be good for an interest which the party shall afterwards acquire, the distinction is this, one contract conveys the thing with the delivery of the instrument & therefore can convey only that interest the party

then has, but the other is only a covenant to convey at the time when that party shall have an interest. A may however give power of attorney to make leases of lands which A shall afterwards purchase 1 Bon & 158

Executory contracts require something future to be done, but executed contracts are complete in themselves. Therefore if the latter cannot pass an interest at the time, it cannot at all —

A covenant to stand seised, tho in form executory is in reality executed 2 Bl 243, Bon & 1, 9 274

Hence from this principle, that if one of two joint tenants lease the whole estate & after the half survives by survivorship, that still the half is not bound by the lease

1 Bos & P 10 1 Ch cas 222, Bon & N 295, Salk 276, 2 Ray 749, 2 Ed 1048, 1559, 3 Ph 370, 2 Ver 11, Bon & N 97.

If I make a lease of land by deed & afterwards purchases the land, he cannot claim this title at the time of making the lease, so with mortgages

Per cur authorities

The reason is not very evident why a deed should not estop the party in case of his having conveyed a freehold interest, before he had any in the land 3 Ph 370, 71.

A contract is to what is impossible perpetually void & void, but if one subject are merely to the party contracting impracticable or impossible, they are binding,

1 Vent 200, 6 East 375, 1 Bos & P 160, 179, 2 L Ray 1165, 6 T R 301, 1 Vent 269, 1 Wils 299, 1 Ball 569

There is no distinction in law as to near and remote possibilities if one covenants to do a thing, rendered impossible afterwards by inevitable accident, he must notwithstanding answer in damages — as if A in London covenants to be in N York at a certain time but is prevented by storm

3 Burr 1639, Doug 259, 1 Tbl

The possibility necessary to constitute a good contract includes both physical & moral and so has legality 1 Bos & P 154, 1 Hawk 103, 1 Tbl 213, Comyn 39.

If they are contrary to the law of nature of God, or municipal law, they are void

1 Inst 206, 16 Am & E 166.

Those contracts are contrary to the municipal law which

or repugnant to the rules well
fore, opposed to some maxim of the
Law, or against the provision of
some statute

Co. L 39. 1 HB 322, 3 Ruf 17, 22, 7 Dit 328,
3 Ket 89, 1 Pa B 232, 2 Wils 341

All those that restrain men in
their profession or obstruct the cul-
tivation of the soil are void. It is the
same with the Law contracts which
for a good consideration restrain
a person from the exercise of a trade
in a particular place, the ones pro-
vide lie on the party relative to
the consideration who is to be beni-
fitted by the contract

6 J 596, 1 Bulst 146, Palm 172, Dyer 39,
1 Lev 61, 100 Mod 25, 27, 120, 10 Pa W 181
192.

It matters not whether the trade
restrained is one the person follows
or not

The gen rule is that contracts which restrain men from legal pursuits are void.

Cowt 229, 4 B 125.

A Policy of insurance on the property of an alien enemy is void

2 Roll 133, 1 Bur 495, 2 Dr 1545, 548, 6 Dr 735

Doug 298, 1 B & Pul 345, 1 East 196, 475.

But all contracts with an alien are not void, for some contracts are held good, this the matter of which may do which will bind him & the owners

1 B & Pul 563, Doug 619, 3 Bur 1734.

This exception probably would extend to all contracts which arise out of a state of war & which tend to mitigate the hardships of it

When the fact that makes the consideration ~~void~~ unlawful is known to the Promisee, a Promise of

idem - ity will be binding

Hutton 53 10 on 6 1778.

If a Creditor tells the Sheriff to take the goods of A instead of those of B and tells him they are A's the Sheriff is liable but he has his action against the creditor

6 T 752. 6 on 6 178. Cowp 39 729. 2 Wils 610 10 on 6 182, 283.

All contracts which are illegal against public morality or decency, are void

A bet or wager that one has been guilty of an offence will never be recovered. It is the same if intended as a color of secure

6 a 39. 182 1 Pon 6 182.

Wherever a contract as to the playing an illegal game is void, & Indeed contract as it is the cause of a cause -

2 M 64 Cowp 37

Acts fraudulent against stron-

:gers is void, but tis not always so between the parties at Law, One to pay money to an underbidder at auction is void

Doug 415 488, Salk 156, 4 Burr 166, 2 Ld Ray 963.
2 Ld R 330 656, 1 B & P 95 286, 1 Bos & P 185

Contracts which take more than lawful interest are void

1 Burr 196 Doug 652 696, Hob 172, 2 Mod 856,

A Cont to indemnify a printer against all slander is void, a wager that one of the parties will do an unlawful act is void

Cowp 60, 64, 2 Bulst 213, 10 Coke 105 b
Ld Ray 118, 324, 6 Bl 2 W 1, 1 Levinz 209, 1 Bos & P 198.

There is a difference between a bond for the performance of several cont where part are good & part bad by st law & when by Chan law in the former case the whole bond is void, but in the latter it is good

for the good covenant

3 Wils 351, 2 Vent 237, 4 Bac 438.

Though an illegal con creates no rights and imposes no duty, yet if it becomes executed in some cases the law will and in others it will not, rescind it, and in this they make a distinction between cases where both parties are considered as criminal and where one only, If A pay money to B to commit an offence, the contract cannot recover it back after the offence is committed

Ld Ray 131, Salk 22, 2 Bur 1012, Cowp 790, 1 Ven 6 2 Lev 4 Ch 87 Pat 175, 1 B & P 3, 298, Doug 90 note, 1 Ph Ch 405, 3 Ath 220.

This rule will good does not hold because he on disagreement to commit the offence, the money deposited in the hands of a stakeholder may be required back either of the parties any time before he has paid it over, & if he is forbidden he must

not pay it over at all
5 T Rep 405, 3 East 222. 1 Ray 89. 5 T Rep 409
2 B Rep 1071. 2 Wils 309. 1 B & P 3. 297. 3 East
222
It has been awarded in K.B that when
A paid 100 £ to B on condition to re-
ceive 300 £ if there were no hear with
France, this was unlawful, but
still the 100 £ might be recovered
back. This decision has been much
questioned 7 T Rep 535. 1 East 98
Where a premium has been paid
on an insurance on an illegal voyage
he may recover back before the voy-
age but not after
Doug 471. 1 Bos & P 202. 206. 3.
Where a party who has paid money
on an illegal contract is not pari
delicto in origin, he may after exec-
ution recover the money, Where an
insurance the law is made to protect
the weaker party, it may be recov
ered even after execution

Comp 791, St 915; Doug 481, 671 note 1 Ph 218 235; 4 Bep 261, Bet P 132, 1 H Bl 65

A bond given in consideration of a past illegal act prohibited by positive law is not of course void. As if a partner gives an illegal debt & then takes a bond from his partner to satisfy him for the debt, the bond is good.

4 Burr 2069.

Where so if with the privity & consent of the other, he takes the whole debt himself & recovers from his partner

2 Ch Rep 418 2 H & B 379

If I had been without his privity & consented would have been otherwise,

Person making contract, the thing of which is prohibited, he will be barred, but can recover no consideration etc if a Clergyman be prohibited to trade, as they are in Eng — he will be bound because the object was to prevent

dangerous trading, and not to injure those who innocently trust these Clergy

1 Ch Ch 199. 1 Bro. C 231. 2.

When the object of a contract is perfectly useless, it is void, as if a man covenant not work his face Cawn

329, 735, 3 Burr 699.

Likewise one which wantonly effect the interest or peace of a third person is void, A wager which tends to the introduction of any indelicate evidence is void on that account

3 Burr 700

It Contr is necessary where one person immediately and the other is trust ed or when either person is immediately and with are trusted

2 Bro C 443, 1 Ver C 234

Where an exception is of something demised, it amounts to a covenant on the part of the grantee, that he

will not disturb the grantee in the enjoyment of it, the grant of a form reserving out of it a right of way or common — But an exception of part of the thing itself which prevents it from passing at all does amount to a covenant, not to disturb the grantee in the use of it — as on the demise of a form excepting a rick or number of acres, this is only to limit the quantity to pass as described, & not to reserve something out of what is meant to be passed.

1 Rand 344 ; Bac 31 Cont. 232

Ill. 196 ; 11 Ala 170

Nebhouler hereditaments & tenements to a house reserved in a grant of the house, the land or does not pass & therefore does not amount to a covenant on the part of the grantee but the grantee shall quietly enjoy the ~~the~~ premises

Rent or otherwise with the right of
passage, because reserved out of something
that passes
6 Eliz 257, 4 Co 87, 6 Jam 399, Cro Eli 130, 7, 1 Ventris
It is the same with a lease reserving rent
because it arises out of or nothing granted
cd, Hob 132,
Implication contracts arise solely
from justice
10 Com Dig 240,
In case of a tres. paper on an in out
land, the law implies a contract
that the tres paper shall be liable for
all damages
If the lessee holds over after the determination of his term, the law implies
a new term from year to year
Peake's Law 32, 43, Doug 3
2 Bl 1 Co 6 101, 218,
If a purchaser of land who has only
paid part of the consideration money
becomes a bankrupt the land is com

vested in law or bound in trust for the payment of the remainder

1 Brown C.R. 423, 3 Atk 272.

It is a general rule that where an unlawful condition is annexed to an executory interest, the whole cont is void

1 Ventr 206, 2 Ventr 169, 2 Wils 344, 3 Lev 411, 4 Burr 2224, 10 W 181.

But on the other hand where it is annexed to an executed cont the condition only is void & the interest absolute

1 Ventr 206, 1 Ventr 206.

The reason of the difference in the law seems to be because the cont in one case rests upon the party to divest the interest paid on the other

2 Ventr 169, 2 Wils 344

A bond given before hand to a person rewarded for prosecution is void, but if given after it is good

2 Wils 339, 3 Burr 1513, 2 W 432, 1 Burr 317

A condition repugnant to the nature of the cont is void

because either the condition or the cont
must be void and the former is preferred-
But still a bond or covenant by a grantee
which is consistent with the grant is good
because it only subjects him to damag
es and does not defeat the estate
6th rep, 2 Co 23 6th rep
Conditions are either possible or im
possible, the latter are so at the
time of making the contract or
become so afterwards, by the act of
God, of the law, or the party contracting
if the contract is not, the law avoids
in these cases an executed contract
is not avoided; or if a thing dies
before the day of performance, the es=
tate is nevertheless absolute
or 1 Dons 164, 1 Mont 200, & 1 Vern 204, 5
If a condition possible at the time, but
which afterwards becomes impos
sible is omitted to be an executory con

the obligor is discharged, for the
of contract cant be enforced till the
obligor is in default, and if he is pre-
-vented by the performance becoming
impossible it is not such a default
in him as the law recognises as such
Co Lt 170, 1 Ld 209, Doug 659, 1 T Rep 638,
2 M & B 126, 7 T Rep 384.

If a man give a bail bond for the
appearance of B on a certain day
and before the day B dies, the man is
discharged.
5 Co 21a Co Lt 198, 17 Rep 638, 2 Bay 688,
Hob 235 Doug 659, 3 T Rep 590, 7 Ed 383, 1 Lev 619,
1 Esp Rep 43.

If any [illegible] of the court the act of a
stranger is mere evidence of
the performance, & he refuses the
wind discharge the condition if he
has really performed it [illegible]
[illegible]
Co Lt 174 [illegible]

If a bond be given for the performance of one of two things & one becomes impossible, it is good for the other, unless it has become impossible by the act of the obligee 1 B & P 242.

If a condition become actually impossible the obligor must do what he can 1 Mt 252, 219, 2 B & P 103, 581. 1 Ch 209 211, 2 Rep 254

Those conditions that are impossible at the time of making the contract are precedent & subsequent, the former must be done before the contract can be executed, the latter is one which will convert or defeat the contract already executed.

If a subsequent condition is impossible or unlawful at the time the contract was executed, only the condition are void - and so if they become so after wards but if the subsequent conditions be immoral practice in the body of

the instrument, it does or has been said render the whole void, because such an incorporated condition will always amount to a mere dent

on 15th 172,

but seems if the condition is in a dis:
ct part

[illegible] are divided into written
and unwritten by the St 29 Car 2,
all parol leases in ena shall operate
only as leases at will except where
they do not exceed three years &c
But now these are leases from year
to year

[illegible] of [illegible] required
to be in writing are [illegible] made
by Yr St

What [illegible] was
[illegible] the Nisi apet.

in his hands were a sufficient consideration for a parol promise to bind his goods, but this is not law now, this consideration dont bind at all to the Ex or Ad & then his goods are liable only by written cont, The St dont touch the consideration of promises but only gives a rule of evidence

1 Vez 126, 5 Mas 8, Rob on Fr

Coun 238, 5 Mas 590, 7 Pet 356,

The proof of a pet having descended to the Ex — was never held sufficient to bind the Ex de proprios bonis in his promises —

17 Mas 590, 2, 5 Mas 6, 7 Pet 453,

Who otherwise been holden that a sub. ref. to arbitration was an acknowledgment of a pet to satisfy that particular claim so as to charge his goods but this is not law now

But if the arbitrators award, that the Ty shall pay a certain sum, this is considered a conclusive evidence of a debt which is within the rule of submission

7 Term 453

It was formerly held, that the payment of interest of a debt due from the Testator was acknowledgment of a debt sufficient to discharge the principle 5 Term 8,

On the other hand the acceptance of a bill of exchange by the drawers Ex amounts to an acknowledgment of a debt and will bind his de bonis propris

3 Wils 1, 2 St 1200, 1 Ch Ca 487, 2 Burr 1225, 1 W Bl 022,

The promise of a bill of exchange by the holders Ex is likewise an acknowledgment on his part

3 Wils 1, 6 Bro Parl 511, 2 St 1206,

There has been a division universally acquiesced in, that such a promise in writing as the St requires would not bind the Ex unless there was some consideration. The ground of his liability for a promise in writing was the same as it was before the statute on a parol promise

7 Mass 356, Rob on St 202.

The object of the St seems to be to allow the rule of evidence not to change the nature of simple contracts when in writing from what they were in parol

A promise by an Ex in consideration of forbearance of suit, where the Ex was bound on behalf of his testator will bind him, but seems if he were not bound

2 Sa 136, Rob on St 206,

Also where the Ex is bound in such case as forbearance it is

not necessary to aver that he has assets for execution

For every written con is a special con & therefore does not require a consideration. Must be shown

If a man make a parol promise & afterwards become Ex. this promise is not within the St

Stone v. Cox, 7 Rob. 7 & 01

The SECOND clause is a promise to pay for the debt default or miscarriage of another

Here is one rule to be observed viz. that if such a promise is original it binds the mere writing of creditor it does not

Lane 1087 Cowp. 286, 1 Esp. 303. 3 Burr 1888

The original is where one promises for another, who

is not & never was liable to the
promisee — and this cont be with
in the St which effects those cont
only for the debt mis — or debt of
another
Again the promise is original
where the responsibility of the ori
ginal debtor ceases when that of the
second begins
Again the promise is original
where a new consideration ari=
ses to the new debtor

On the other hand where the
promise is merely to give secu=
rity or enlarge credit so that
the person is himself liable, the
st. gen. cont to be in writing
5 Ind 205, 2 Wil. 94, 2 Gray 1085,
Salk 27, Cowp 26.

It may be said now as a gen
rule, that the cont is collat=

eral where the first debtor is liable

L. Ray 1038.

A Promise by one of several promisors who is already liable, is not within the st. because it is not to pay the debt of another but ones own

A promises B that if he will become surety for C he will pay him — This is original, for the turning the Land of C is a consideration

3 Burr 1888 1 Term Rep 130, Roberts 243, 2 East 325.

The delivery of a bond to a third person is likewise a sufficient consideration

1 Term Rep 110

Where A goes to A. and of B. is about distraining of C. who is his opposer the delivery tells A he will be bound if he will not

distrain the goods. Here is a consideration & the contract is original. This has sometimes been considered paying another's debt, but Gould says a promise to pay for the purchase of goods, because it had an interest in the goods from his right to distrain which would take them from B, therefore to B is a good consideration & out of it. St.

It has been supposed that a new consideration would bind in a verbal promise whether arising out of a new transaction or a past one & whether moving to the promisor or not. This is incorrect

Cowdel 390, 3 Sun 1884 Bc 1 P 9. 81,

77 Ann. 21, 2 Vid 94. St 873, Rol 433,

A written promise upon consideration to pay the debt of another, if he does not pay himself, is binding

but will be discharged if the promisee give an extension of time to the debtor - where the promise is original, indebt assumpt, is the proper action but if collateral and in writing it action must be special

Roberts 216, 1 Burr 373, 3 Leon 363,

2 Roy 1085

If however the collateral promise not be in writing the Dft dont plead St but confesses the St, judg will go against him for there no evidence is required & the St relates only to evidence of parol promise to pay a debt & as some thing else is void, the cont is entire

2 L Roy 201, 1 New Rep 130, Roberts 112, 173,

When the cont must be in writing the not see pay, to avoid it

is in writing, because the St
affects only the evidence
But if the promise to pay money
in act. be pleaded in bar to
another promise it must be
averred to be in writing
2 Term 350 7 Bro 450 2 Wils 29,
Bet P 279,
As if A promise B to pay him
a debt of C & if B will discharge
C, Now if B sue C, C must aver
this cont to be in writing
2 Bro 350,
A consideration is as much
req for a written cont now as be-
fore the St. for parol cont

~~The rest of the [illegible] that other
cases [illegible] principle that
what ought to have been done will be
considered as done, they con~~

sider the contract as executory, whereas law views it as executed, & so if the condition of an executed cont becomes impossible, the cont is void, but if the condition upon executed cont becomes impossible, the cont is good, but the condition void,

Hence Eq will aid in these cases while law will not

Eq never will deprive a man of a defence he has at law & it will never aid any where it is a mischief

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A parol contract to pay the debt of another and to do something else besides is void in toto, or if one part of a contract is void the whole is — 7. Co 201, 204, 1 New R 130, Cro Eliz 420, 423, Roll 173 note, Roll 112, note 231,

3th Agreements in consideration of marriage

This clause relates not to promises of marriage, these are good, tho parol — Bull 280, 1 Ld 179, 2 Or, 386, Stra 34. Roll 190, it relates only to agreements in consideration of marriage, i.e. such as are made in relation to marriage or family settlements, these must be written, 1 Ow, 277, 8, 10 W 118 Prin in Ch 526. 2 Or, 386, Bull 280, Stra 34. No exception to this rule only in part performance

It was formerly doubted, whether a parol agreement would not be good if it was stipulated that it should be reduced to writing, 1 Ow 277, 1 Ch Cas 33.

But such stipulation it seems makes no difference does not take the case out of the St. 1 Ow 281, Prin Ch 402, 3, 3 Atk 512. If however its commencement to writing is prevented by the fraud of either of the

Parties to the marriage takes effect the con- will be enforced, 1 Equity ca 19, Prall 178, 136, 7

A parol promise before or on marriage is a sufficient ground to support a settlement made in pursuance of it after marriage — so to support a promise in writing after marriage Stra 236, 2 Lyon 146, 1 Dese J 196, Prall 197, 200,

A letter written and signed by one of the parties is within the St, 1 Ath 179, 18 Ves 287, 8, 2 B, & 82, 300 315, 1 Ver 201, 2 ab 322, 2 Vern 361, 1 Dick 332, Prec Ch 360, 3 Ath 103, Prall 190, 1, 105, Eqn ca 49, It is necessary that the parties act in contemplation of the terms in it.

It must appear that both parties are and the terms contained in the letter, Where the party to whom the letter is written was ignorant of the promise in it at the time of the marriage, e.g. The Father wrote to the husband before the marriage but the letter was not seen till after the marriage, the bar, is not valid 1 Ath 193, for here is no agreement,

The letter must furnish an entire, the terms of agreement 1 Ath 179 Prec Ch 360 Stra 426, 1 Ath ~~[illegible]~~ 12, Prall 191, 106, 18 Ves 291, 2 Eqn ca ab 17.

a letter to one's own agent, mentioning the terms mutually agreed upon is written evidence, 3 Atk 503, Ralt. 121.

4th Contracts for the Sale of real Property

It has been thought that things which may be severed from the freehold such as trees, grass, or machinery of mills &c are not within the St, but are they not as much real as the earth, and may not that be removed too? 2 Br 182, Bel min 282, 1 Bosanque & Puller's Rep. 377, Roll 126, 6 East 601, 2, contra, 8 J B 151,

Formerly, (though incorrectly) it was held that if it was stipulated the agreement should be in writing, it was good but not law, 1 Raw 279, 283, 1 Ves. 151, 159, 221. 1 Equ ca ab 19, Prec in Ch 402, 1 Raw 281, 2, 1 P W 770, Roll 147, 1 Vern 221, 6 Brow Ch 45, Prec Ch 402, 2 Brown Ch 555, Rab 147

Parol promise to pay for land or an real property is valid, Raw 77, 8, 279, because no injury is done, & the law does construe the satisfaction to be directly for the property,

An agreement to pay more or to refund, according

or the property proves more or less valuable, is not valid, because there is a written, plain contract, and it is a maxim that no parol can change a written agreement. Fish 22, 1 Root 73, Day Cas 23,

But some parol agreements in the sale of real property are notwithstanding the St, sometimes valid. It depends upon the nature & consequences of the agreement, good if provable consistently with the spirit of the St, and the rules of evidence. The St affects only those cases tending to some injury, vide 1 Black Rep 60.

When there is no danger of fraud or perjury in enforcing the agreement, it is deemed not to be within the St, if on a bill filed for specific performance, the Dft confesses his agreement, there is no danger of fraud or perjury in acting on such proof. 1 Ch Ca 292, 271. 1 Ver 221, 441, Prec in Ch 2 10, 354 2 Atk 100, 155, 300, 1 B & P 600. 2 B & P 568, Amb 566 Besides say Powel 292, the agreement may now be considered as in writing — If Dft does not insist on the St, he is clearly bound, so if he is prepd to submit to a decree of performance (Prod 156) and if the Pltff alleges a written agreement, evidence of a parol promise will be good, if the Dft insist

on the St Rivers, if the Df has an confessed the agreement, can he then plead the St 2 Ves Ch 208, 374, 3 Atk 3, 2 Brown Ch 568, 4 Ves Jr 23, Rol 156, 1 Ch Ca 1 B Ch — the rule is laid down generally, that an agreement confessed is out of the St, but L Man decided that notwithstanding the confession the Df might plead the St — 1 B Ch 600, 2 Ves B Ch 62, 3, 6 Ves Jr 23 Roll 157, 238, 4 Ves Jr 23, 6 D Ch 37 Roll 160, 1, 2 Ba Ch 559 here the St was allowed tho the agreement not denied, but this decision was on the special circumstances of the case ibid 567, The agreement was in an the only gen heads of instruction to the Attorney, the particular terms not settled, Rol 160, 1 Br Ch cas 45, cited 2 B Ch 567, 8 here the agreement was not confessed 1 Sch 170, 1, Mitf 211, Roll 160 Roll 238, 6 Ves 548, Roll 238 note —

M Grant is fully of the opinion that the confession takes the case out of the St, for the St destroys no contracts, but only introduces a new rule of evidence, no one doubts but the confession is sufficient evidence and as there is here no danger of fraud, the contract does not come within the St — 2 B Ch 567

Real Property

It is a question whether Dft in Ch for a bill of specific performance in parol agreement is compellable either to ~~answer~~ confess or deny, 1 Atk 168. 178, denied by L. M. that he is, cases cited by L. Hardw 2 Br Ch 560, 2 Atk 155, 4 Ver 724, Clifford 2, 11, 12, Contra, Prall 1 v 6, 7, 160. It is said if the Dft is compelled, he is tempted to commit perjury, but surely not more, in this than any other case in Ch — the Dft was made to protect only the Dft — If he is bound to confess or deny, a confession will not take it out of Dft, for surely the Ct would not compel him to do a thing, he might immediately avoid Prab 101, 1 Atk 171

It has also been holden in Eng — that a party to a parol agreement for sale of lands, thro' he denies it by answer, if a previous confession out of Ct can be proved, it shall be binding 3 Atk 497, 1 Pow 293. Upon the same principle viz there is no danger of fraud a parol contract for the purchase of land; as a vendee is valid for the sale being under a public officer

There is no danger of fraud 1 Bro 271, 4, 1 Ver 218, 221, 1 Atk 289, 1 Ch Ch 334, Prall 115 —

So a parol agreement between two solicitors in ref of ch is good, for here is no danger of fraud 3 B Ch 334, Prob 115, note.

A Parol agreement inferable from circumstantial facts in proving which there is no danger of perjury or fraud is good e g Sale of land by absolute deed, but the vendor remains in possession — gives no rent, does account for the profits, pays interest on the alleged sale & the Ct will conclude this to be a mortgage and thus redeemable — Pow mor 65 Pal loca 60, 3 Wooddeson 427, 2 Vere 376. 2 Atk 71, Prec Ch 526, 21 Viner 494, 1 Ch W 381, 2 Do 549 1 Vern 108, — ' here no danger of perjury and an act made to prevent and not to support fraud — 1 B Ch 600. 1 Pow 294, 296. 1 Ch Ch 171. 2, Prall 131, 2, 8. So that where a party by not performing a parol agreement will practise greater fraud on the other than would result from a mere breach of the agreement itself, he is gen held to it in Ch — Prall 131, 2, 8.

Verbal agreement performed or partly performed on one side with the consent or at the request of the other party will bind the latter — e.g. if leases to B for 20 years, B enters, builds or incurs expense any way of importance, b.h. will enforce the contract 1 Ch 171, 2, 1 Roos 77, 8, 1 Bro 295, 1 BR 600, 1 Vern 159, 1 Ver 221 Str 783, 2 Ch 100, 2 Vern 378, 619, 1 Do 363, 1 Ver 83, 221, 277 1 Pa ab 74 Ch 349, 1 Ver 341, 3 do 378, Roos 130, 2, 8, 1 Ch 100 otherwise it would practise fraud and B, not ever intending to perform himself 3 Madd 433, 435, 9 Mod 37, 2 Eq ca b 48, Pre ch 561, 1 B. ch 417, 1 Bas & Pul 397, besides the acts done & acquiescence, furnishes presumptive evi of a contract so no danger of fraud 1 P 309, Rob 131, 2, 138,

In such cases the agreement has been enforced tho the terms of it were not precisely settled by the parties in evidence — 1 P 297, 2 E ca b 48, 17, 5 Viner 523,

Delivering possession of land in pursuance of a verbal agreement is a sufficient part performance to enforce the contract 1 P 299, 300, 1 Vern 363, 435, Bunb 94, 2 Eq ca b 48, 6 B P b 102, 1 Roos 778, 7 Ver 349 Pre ch 578, 2 Ver 347

Ch 783. Roll 147, 8, 1 B Ch 409

Since a taking possession under the agreement is deemed sufficient notice to all subsequent purchasers, so that the first person under parol will hold to the exclusion of all others -- 1 Ch 312 1 Vern 365, 2 ac 363. -

So payment of part of the money is sufficient performance, 1 Ch 304, 5, Vine 523, 3 Atk 2, 1 Ver 83, 222, 1 Ba 64, 1 Ch 175, Roll 155, 4 Vin 7720 3 Vin 413, Roll 133, 4, 155, 2 Eq ca 46, 4 Ver 7720 This money must not be the earnest, for this is no part of the contract, a mere form Ch Ch 560, 4 Ver 7720, Rob 154, 5.

Questioned whether parol evidence will answer to prove the payment of a part or the whole of the money - Rob 153, 4. note, If there is a receipt, then a written contract, of course and of the St. Parol must then be admitted

The act done must be such as would be, prima facie, against the party claiming unless the agreement was enforced, the same part performance by one of the parties will not enable the other to a decree 7 Ver 7 41, Rob 138, 162, 6 Bro P C, 45 -

But the act must be such as the bill is satisfied would not have been done if there had been no contract, seem it forms no evidence of the contract. 3 Ver 378, 1 Prob 139, 162, 151, 1 Pow 309, 1 Bar 74 3 Atk 4, 2 B Ch 561, 1 Ed 175, 2 B Ch 561, ds 412 1 Atk 12, 6 B P C 45, Amb 786, 1 B Ch 412 —

Going to view the land, hunting its deed, &c is no part performance, for the performance must be something in the contract 1 Ed 175 — 6 B P C 45, 3 Ver 734, 339, Prob 139, 140, 162, Amb 786, 1 Bro Ch 412, Ver 741, —

Marriage is not of itself considered as part performance, for by the terms of such contracts they are not to take effect till after the marriage, to consider marriage then as part performance would take every case of the St and leave it as at com law — 1 P 309, 1 Bar 74, P Ch 561, Dis 730, 1 C W 618,

But it is said that parol consent in consideration of marriage if made by a person as father and he assents to the marriage, it is out of the St 1 P 307, 297, 8, ours a fraud on the parties 1 P 298, 309, 2 Vern 373, 2 Ed 201 —

So where it promised to his intended wife, that

continued to Page 15

after marriage during coverture she should enjoy a certain interest — she enjoyed it awhile this is sufficient part performance — 16 304 1 Ver 297, 16 Ow 304, 2 Ca co ab 29

The cutting timber on an estate given on consideration of marriage is sufficient part performance — 2 Eq. ca ab 29, 1 Ch 399, 2 D 221 —

A parol agreement will destroy a written one resulting an interest in lands or any other subject, if there was fraud in the written agreement, 3 Ath 389, 1 Hil 188, 16 W 620, 2 Ath 203, 1 Eq. ca ab 20,

So a parol contract concerning interest in land may be proved, where it is only an incumbrance to fraud, the action not being on the contract 2 D 531,

So a mistake in a written agreement or the omission of figures, words and the like, may in ch be filled up with parol evidence, for an incorrect contract is of course not the contract of the parties — 1 Hil 188, 193 1 Ver 457, 2 do 376, 2 Ath 203 —

5. Contracts not to be performed but within one year from the making of them —

All contracts respecting land elsewhere considered, within the St. 1 Vern 189, 8 Ed 327, 1 Con con 276, 1 Rob 89, When the performance is to take place on some contingent event which may or may not happen within a year, as if I, e.g. I will pay you on my marriage, or a third person death, I will leave it in my will, or a promise of a ship to B, Salk 280, Bul ni 280 Ld R 506, 3 Burrow 1278, L R 316, 17, 673, 3 Sal & Hol 326.

Also to make the contract binding, it is not necessary the contingence should happen within one year, L R 317, 3 Bur 1281,

A promise to leave in his will to B £600 3 Bur 1278, 1281, L R 817

If the consideration is constantly accruing, as the board of a person, the entertainment of a person to B, the debt is payable on parol one year after its completion 1 Rob 89

Rules relating to all these contracts

Here What is a note, memorandum or writing & Gen rule, any writing intended to furnish a

evidence of the writing contract, hence any letter, or writing, even without form, if it has but good evidence 3 Atk 503, Vern 201, 2 do 322, 2 Br Ch 32 1 Ch 171 — the terms must be specific and the contract fully intelligible P Ch 560 ST 226 1 Atk 12,

If the writing is not itself specific, but can be made so by references and comparison — good 3 Br Ch 318

It must appear that both parties agree in this writing and act in pursuance of it — 1 Ch 179, 2 Ch 65, 16 Ves 287, 8, 9 Mod 3 Secus 16 Ves 289, 5 Vernon 527, Rol 107, 8, 192, 3,

An advertisement written or printed if the terms are explicit is good Fairly 14 Bl R 599 3 Burn jus 1920, but the consideration must appear in the writing, else it is not the complete agreement, but only one side — 5 East 10, 6 East 307, Rol, 116, 207,

If an instrument intended to be a deed is wanting in some point, it is in Ch evid of an agreement and good — or if wanting by the change of circumstances good — because proof of an agreement 2 Ch Ca 242

Signing

An agreement must support the privity & assent of both parties, therefore an entry on a stewards book no evidence of an agreement between Prins & Landlord 1 Atk 493 Roll 109

What is sufficient signing? ——

The name or any thing purporting as its substitute e.g. mark &c, if written for the purpose of giving authenticity to the writing is sufficient, wherever it may be on the paper — 2 Eq ca 32, 1 Ver 6, 3 Atk 503, 1 Ill 165, 9 Ver Jr 249, 2 Bo Pul 258, 1 Ex R 190,

The name must be written or intended to authenticate 1 Ill 165, 6, 1 P Wms 770, 1 Bow 284, Roll 121 ~~1 Ver 221, 1 Ill 165, 6, 1 P Wms 770,~~ ~~1 Bow 284.~~

Twas once held that any alteration by one of the parties is sufficient abrobation of it as he then leaves it therefore sufficient signing, but this no evidence that he will acknowledge it now as his agreement, 1 Vern 221, 1 Ill 165, 6, 1 P Wms 770 1 Bow 284

But signing the writing as a subscribing witness, the signer knowing the contents, is a sufficient signing to bind the signer to

every part of his daily theirs in, neufie 1 Ves 6,
1 Wil 318, 1 Paw 284

Who must sign? Sufficient if the party, or
who has signed, has had evidence in his power
of the acquiescence of the other — A draws an
agreement, and procures B to sign, tho' he does
not sign himself, B is bound, 1 Paw 286, 2 Ves
373, 1 Eq ca ab 20, 2 B Ch 564, 9 Ves 351, 2 Ch
cas 164, 2 Lan ca b 32, 7 Ves 265, Roberts 124 note 135,
Roll 117.—

It is said that A signs in this cases, for he
procures B to sign for him, no B signs only
for himself — 1 Ves 82, Rob 124, —

But an auctioneer subscribes for the seller
and the buyer, this the only question to be
determined 1 B R 151, ~~Ch~~ Buller 280, 3 Bur
1921, 8 D R 151,

It has been doubted whether sales at auction
are ever included in the spirit of the St, because
no fraud in proving them, Bul 280, 103 R 600
3 Bur 1921,

The name printed or written at his request
by another is the same as if by himself
2 Bar Pul 238, Rob 1241,

It is not necessary the agent should show

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32.5

Consideration

in the written contract or in any writing, his authority as agent, for it dont require this Vin ab to Con, 45, 3 Wood 427, 9, Ver 251,

[illegible] the contract should be the same signed, if it will lead to and the parties will confess what is the real contract, no danger of fraud Lee 363 Ch 318, 2 Ath 503, Rob 121

The writing of an agreement in ones own hand is not enough unless signed 1 Ch Wm 770 Ch 121

[illegible] compass [illegible] real estate property — for the [illegible] depends on his hart and the donor dont depend on his — if he ever recovers he may avoid the contract, or if he so dies his heirs may [illegible] him — 1 Pau con 13, 14

Considerations in Contracts

A contract is an agreement upon sufficient consideration to do or not to do a particular thing 2 Bl Com 446 [illegible] and to this define in a consideration is the efficient of the contract, the material cause of it, and what alone induces the parties to the contract 2 Bl Com 443 4, 1 Pau 350.

There are two kinds of ~~contracts~~ consideration, Good & Valuable

A Good ~~contract~~ moral consideration is one arising from consanguinity, natural affection.

A contract with this consideration is good as it respects the parties themselves but not as to creditors 2 B Com 297, 443, 3 Coke 83, 1 Vern 467 1 Pow 361, 3 P W 222, 339, 1 Ly cas 84, 2 Atk 152 9 East

An executory contract on such a consideration is often enforced in Eq 2 P W 176 1 Vern 427 1 Pa 369.

2d A Valuable consideration consists of any thing valuable as money goods labor or marriage 2 B Com 297 3 Coke 83 so an ind[illegible] of to B for becoming surety for him [illegible] 83 1 Burrow 482, 2 B Com 297

Contracts are either Special or ~~Contract~~ Simple 5 T 234, a special contract is made in deed, a sealed writing or any kind given by specialty. 1 Instit 171, 2 B Com 465, 291

A simple contract is one not under seal and may be in writing or by parol or a parol is the same [illegible] unsealed writing

Co. 2 354, 2 B Com 465, 6.

Consideration

In Connecticut all written contracts are valid whether sealed or not, here then simple contracts are always ~~contract~~ verbal

In Connecticut sealing is not necessary in any instrument

1st An executory contract in parol without consideration is invalid, tis a mere nudum pactum 4 Co 445 Lawkhill 129, Plow 302, 309, 1 Ill 326, 332 L Ca 909, 5 Co 143,

2 An executory contract in writing if without consideration if sealed is good, 3 Bac 1670 3 Com 446 Cook, incorrect the court will presume a consideration 1 Cow 333, 341, onward, 1 Ver 321, 351, 9 Ills 421, 754, 4 Mod 242, Strange 694, Bul Nis 27, Cro 114 - 2 Ret - Ill 335, 1 Cow 341,

3 In an action on a sealed contract in strictness, a consideration is necessary - but the Pltff need not show it - and the Def can not require it for first the seal, only of the instrument is sufficient and 2d a consideration is inferred from its being sealed and the Def can therefore contradict this writing Plow 308, 1 Ill 434, 2 B Com 29, Bac 1637 L Ca 729, 1550 Cow 341, 1 B 344 But if want of consideration

appears on the face of the Specialty, the con-
is void 2 Ro 577, 4 Burr 2072, 3 Ad 1639,
7 Ro 477, 3 Ad 438, 1 Saw 368, 7 Cok 40, 2 Atk 152.

These rules of consideration apply only in
cases of executory contracts

An executed or partly executed contract is
valid as to the parties without consideration
1 Bacon 288, Doug 20, Strang 935, Est Dig 577.

All considerations may arise in two ways
1 from something advantageous to the party
promising, 2 from something disadvan-
tageous to the party at whose instance it
was made, 1 Saw 342, 1 Atk 336 Cowp 290, 4
1 Com 149,

The quantum of consid is never considered
but if there is any fraud, bet will enter there
2 Vern 213, 1 Wil 230, 2 Ver 518 2 Saw 152
An idle insignificant consid is nothing
Est Dig 94, Crok Eliz 206 2 Rolle 23,
So any thing to be done by the party benefited
is sufficient Crok Ja 67, 154, Crok Cha 70 Dire
272, 1 Saw Con 343

The relation of landlord and tenant is
sufficient 5 Ed 373

Consideration

A consideration against the party at whose instance the con is made Hobart 40 & 5. Croke James 342. Croke Eliz 74, 77, 849, 881, Cowth 128

A consideration wholly executed is not valid — thus if promise to pay A 10 dollars for one building my servant, or $500 for one building me a house, for the consideration must be subsequent to the contract, and again the contract must be advantageous to me or disadvantageous to A, but so far as this contract is concerned, we are neither of us effected A has consideration suffered the top flower 5, Tr 702. 2 Bulstrode 73 Croke Eliz 741, 885, Cok Dig 95, 87,

But where the consideration is only partly executed the remainder is sufficient to support a contract, thus a leper promised leper who had formerly occupied and paid rent that if he would continue so to do, he would protect him harmless, here the last part is sufficient of itself 2 Bulst 73, 6 Eliz 74, 6 Charles 409, 3 Saulk 96,

Exceptions to the foregoing rule

A con, on an executed consideration is good

1 Where was a previous legal duty on the part of the promisor, this to A for burying my son, or for some indebtedness. Here the duty continued 1 Roll R 413, 1 Leonard 198, 2 Ld R 210, 6 Ellis 188,

2 Where there was a prior moral obligation tho no legal one, as a promise to pay a debt barred by the St of limitation, So where the putative father of ~~a bastard~~ of illegitimate child promised to do something in consideration of its debt 2 Bl Com 445, Comyn 290 Ld Raym 239, 1 Salk 336, Bull nisi pri 147, 2 Ld Ray 906.

3 Where the consideration was at the request of the promisor, as to bail his servant, build his house, for the law construes the contract all as one, 2 Vent 268, 3 Saunk 96, Butstrut 320, 6 Ellis 42, 282, 6 Jam 18, Hob 105,

4 A stranger to a mere voluntary act comes to an express agreement to support an action for himself for the act nothing to do with the contract 1 Vern 6, 2 Ld R 330, 1 Bac 343, 353, but if the third party is related to either of the others, consanguinity is sufficient consideration

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1 Vent. 318, 332, 1 Saun 153, — commercial — cases under Collin settle in Vermont, ~~ld~~ & court,

5 A forbearance of a suit is good consideration

But the forbearance must be for a reasonable time, to be determined by the court, or for a specific time, or forever, else the consideration will be a trifle — and further the said action must be personally interesting to the promisor or the person bailed Hutt 108, Esh Dig 95, 1 Saun 33, 3, 4. & Ch 206 19, 455

A promise from a mother to pay a debt a son owes, or person who is now a debtor, if Plff will forbear suing her son is not good, the mother having no way interested in the contract after son or the suit of forbearance — Saulk 96, Hard 73, 1 Saun 334. Consanguinity nothing

B is arrested on vain process, and another promises, upon release promises, not good 1 Saun 33-5, 6 East 94, Hard 73,

No, When A promises to pay B debts if the Plff want sue A himself not good, for the Plff might immediately have sued B himself 1 Saun 33, Hard 73 Esh Dig 74

3. However there is any colour of the validity of the suit, such forbearance is good consider

ation - Salk 142, Dyer 272 Contract

When a promise is in consideration of forbearance, the original cause of action is not to be enquired into - 1 Bw 357, Salk 18

Covenants viewed with respect to the consideration are of three classes Doug 663

1 Where that which is stipulated on one side is in consideration of performance of what is stipulated on the other e.g. to pay for completing a house here doing the act is precedent to giving to payment, 1 Vent 177, Cowp 10 1 Bl. 86 3 Bank 95 this is an act fac. ex.

The Pltff in his declaration must aver his performance or its equivalent, else there is no ground of recovery, an equivalent is his being prevented by the Defdt or an offer or tender which he would not accept

Herein does all incumbent on him 17 Rep 638, 1 Doll 123, Strea 458, 1236, 2 Bragg 686 Doug 259, 1 [illegible] 203, 208, 609,

2 Where the perfo mance of both sides is to be concurrent

Here neither can compel performance

Consideration

or bring an action until he has himself performed or done what was equivalent to all that he could do, as on the shot at the butt. But the Deft not, or ready and demanding performance; thus if an agree to bring him a load of wheat, at such a time for such a price, delivered at his door & is ready to pay the price, good ground for an action. 1 Saund 171, 112, 13, 1 Saund 320 b 4th R 761, 1 Lev 619, 629, 1 Ld Raym 203, 7 Mod 125 Salk 113, 4th R 761

Wherever one of the parties was to perform an act, and he was requested & did not perform, then the Pltff may bring action 1 Lev 103.

Mere promising is to be held as an equivalent for the act, & thus the act must precede the right to the money, unless the contrary appears in the agreement 1 Saund 320, a, ab, 7 Co 100 a, 1 Ver 147, 1 Ray 662, 1 Ld 381, 2 H Bl 389 7 Mod 130.

But if according to the contract the money is to be paid on a day, such money may be given before the act is performed

the doing is not a condition precedent
Here action lies for the money before
the act is done 1 Bul 381, 1 Ventr 265 Str 7 Mod 12
662, 1 Raym 378. Salk 171, 7 Mod 100 1 Vent 147
1 Saund 319, 2 H B 389, 7 T R 130.

But if the day of payment is to arise after
the day fixed for performance; the performance
must be averred to support an action
1 Raym 378, Salk 171, 3 Salk 95, Dyer 76, 1 Roll 114, is
contra Saund 320.

3th If here the promises are mutual
i.e. where the promise or covenant of
is the consideration thus I engage
to pay B when B will promise to build
his house, condition of performance not precedent on
either side, either may sue without
performing Dang 6 Co. Hob 88, 1 Lev 293,
3 Bulstrum 187, Salk 24, this is not law
Ch, for here performance or its equivalent
is necessary 7 B P C 184 2 Ves 35, 1 Ch Ca
383, 1 Vs 242,

4 Rul.
Under which of the divisions any
contract will come must be determined
by the intention

335 Comyns Dig 664, 1 Rep 645, 7 Rep 130, 6 Ditto 570
8 Ditto 373

Where these considerations are mutual both parties may have an action at the same time i.e. if they both have neglected to perform 2 Bl. 1312 3 Lev 41, 1 [illegible] 70

Where there are promises on both sides, if either both are binding sees, no consideration to the binding contract, this depends upon the circumstance of the obligation not so with a minor and an adult. 1 Saund 320 Salk 24 Hob 88

Entrusting one with property on understanding he is to do something with it is sufficient consideration to support his promise, thus if part lumber into it's hands to build in a house, his reception of it is sufficient 2 Chan 919, 920, 8 Mod 7, 3 Ld Raym 243, 1 Salk 26, 3 Ditto 11, Com Dig 183.

The preservation of the honour & peace of a person is sufficient consideration in Ch 1 Atk 3, 10, 1 Ver 4, 2 Vent 253, 2 Vere 284, 1 Ditto 450

Consideration

When a consideration appears on the contract no other one will be admitted but if none appears expressly, it can be collected sufficient 1 Paw 368, 1 Bac 450. e g agreement for selling lounge darles.

Fraud in the consideration of the contract does not vitiate it, but fraud in the execution of it does for 1st if the consideration is different from what the Pltff saw or supposed he says it is none of his contract and will order a remuneration, and 2d 6t of law must due a contract good or bad in toto 2 Bl Com 304, 2 Bac al, 594, 11 Coke 27, 2 Cot 3, 9 2 Swift 422,

But it seems decided that speculations wholly fraudulent, where nothing was received are not good, Sweque fraud not speculation 1 Root 58, 305,

Construction of Contracts

1st However expressed the construction cannot be carried beyond the intention of the parties — 1 Mt 146. 7. 1 Can 370, 371 2 Roll ab. 425, 1 Mt 146, 7.

So the construction must if it can possibly, be carried to the intention of the parties. Thus if A owing one year rent from B land 100 Dol and the land was worth do it he may sell it, the selling was not mentioned originally 1 Can 372.

Words are to be taken in their common acceptation unless the contrary appears, thus if A buy 10 barrels of cider he does not buy the barrels, but the wine and brandy he takes the cask 1 Ton 86, 1 Can 374, 6

Words of time are taken in their lunar sense, because usually taken so, but the words twelve months are a calendar year, so used 2 Bos. 116 Cr. 61

Terms, price, or quantity are to be taken as used where the articles are to be delivered or contract performed if any place of performance is mentioned, if not where the contract is made

This is the rule where money is to be paid & from analogy must be where any contract is to be performed 1 Bro 396 Lex Loci - Thus a contract for money or goods made in America to be performed in Europe is not be completed by the specific recovered 2 Bro 88, 696, 1 Ves 40, 56 in Cases to Law in New York

Where not there is ambiguity intention inferable from the effect, subject and circumstances -

Thus A gives security to B in possession of A's lands, this can effect only the civil rights of possession - no warrant against the Kg, or mandamus 6 Geo 4 c. 2 412. Hobart 34, 4 Co 80, 8 Detto 91, 3 Th 481 4 Dl 619

If I grant to all the common for pasturing, the garden, meadows &c are not included 1 Co 377,

So an instrument or writing may have a different effect than from its direct intention it would demand the A B grants, I grant to B a tenement, this is in law a release; so a creditor covenants never to sue his debtor, this a discharge: so a bargain & sale remainder man is a reversion 2 187, 1 Vd 150 2 Saun 96, 6 Ei 502, South 374 1 445

2 Different constructions may be made to give the contract sense and meaning — as persons except the grantor & his representatives can avail themselves of the breach of this contract, so words of condition will be construed as words of limitation. This if I grant a fee simple to B on condition, seems to be a condition limitation — 2 Bl Com 155, Dent 202, 6 Eli 203, 3 Leon 211,

So if A grants an annuity to B for instructing his son, no claim without performance. Vay 14, 1 Cow 383.

A makes a grant to B for his counsel in consideration, here the law says is meant the professional counsel of B unless otherways understood. 1 Co. 381.

So A holding property as executor grants away all his property, not including the deceased's property, because generally understood otherways. 1 Ld Raym 178 Ellis 705. Lit Ld Ley 536, 6, 7.

In the construction of releases, where a general release precedes or succeeds a particular claim or acts solely, the release includes only the particular discharge. But where nothing particular is mentioned a good general release. 1 Leg cab 170, 3 Atk 277, 6 T 170 Carth 119, 2 Ld 234. / for the last act in wide Carthew 119, 1 Show 135, 3 Atk 277, contra 2 Roll 409

[illegible] construed for the grantee against the grantor 967 b. Cro 140 161, 289, 171 1 Inst 197a, 261 b.

Where a penal bond is given the penalty of the rule is here, for the obligor certainly meant this for his own ease & the law rates penalties 4 Co 22a, 23b, Dere 17. Where it binds himself to pay at the Woman's feast and there are two in the year, it may relain untill the last Dere 17a, 1 Roll 397. 8.

In other execution where the consideration will prejudice a third person, thus if in tail lises to B for life, here the life is to be taken, different if it had the fee 1 Inst 42.

Words are to be construed in their most comprehensive sense, subject to the above rules, thus security against all men includes women & children

In indefinite expression is considered as universal, unless some reason to the contrary

Thus joint tenants contract away all their property, including their, in severalty and tenancy. Thus it, diver horses he possesses, now two make diverse, but all are included, as understanding dictates 1 Co 400, 401. Anderson 57

When legal language is used, it is to be construed legally, thus to a man & his heirs, means to all his heirs in perpetuo - 2 Hall 243, 1 Co 402, Hal 217

If the value of any thing is stipulated in a contract the value shall be intended. Things are when the contract is to take effect thus it to deliver Wheat one year from this, its price at that time, one year must be paid Fine 812, Vern 217, 1 Equ cal 221, Atk 406 2 Burr 1010, for if either must suffer the seller ought certainly, and he will now get as much from it as from anybody — Exception, If the contract isn't performed at the appointed time, the value of the articles at the time of trial & failure

[illegible]

upon manifestly taken, but if they have fallen from their value at the appointed time, the Pltff shall have their value at that time, for none but the deft ought to suffer for the Defts tardiness 2 Cont 211, 2 Vern 794, 10 Con 409

A Fr several deeds made at the same time to effect one object will be but one assurance and instrument 2 Vern 518

of disannulling, rescinding, contracts

No contract made till the terms are accepted on both sides, till this time either may decline performance 3 Atk 6

An offer on one side made and on the other accepted, is valid, thus if offers to pay for 100 dollars, B. will give it, good as the spot 2 Bl Com 446, Hob 41, 1 Ba 24, 2 Par 62, 4, But earnest is offered, 1 dollar or some future day of performance is specified as to morrow, Nay 42, 1 Lev 330, 1 Sid 363, 1 Sk 64

And if the contract is not immediately performed or partially, or earnest given

- - - nay

or some future particular time mentioned & mutually agreed upon, but the parties since make the agreement and then depart, the contract is not valid for by our consent the law implies we either never made or have mutually dissolved the contract — 1 Saw 331, 2 Bl Com 447, Plowd 712, 709, 2 H B 316, Dier 30 B 37 B

And where it says B you shall have one hour or day to deliberate then if you chose you may take these articles, the contract not mutually binding, not valid 3 Co 653, 1 Saw 264 —

Before the contract is perfectly consummated as by the arrival of the time of performance, & before there is any right of action a mutual dissent of the parties will annul the contract Com Dig Plead 2 G, 13, 1 Saw 412, Cro Ch 383, 2 Levinz 141, 1 Mod 259, 12 Ed 538 because the law would suffer any action sooner by analogy any right of action to be barred by parol agreements, therefore a writing or release between the parties after this period alone will bar the action — 12 Mod 538, Selw ab 106, 1 Mod 259, 2 Salk 44, Watson on Partnership 29 [illegible]

345 - Bing on bills 83, 4, Esp dig 47, Doug 235, 247,

A Contract may be waived by long omission, thus Lord and Tenant to close a common, concerning which no mention for 20 years 2 B P Ces 116, 2 Eq ca 207, 9 Mod 2, 3, 1 Saw 413, 14, 420, 21, thus A told his wife that during coverture she should hold such property, but after marriage it would not accrue to it, the wife after his death not withstanding this long omission may hold it, for she tho' unfaithfully dispented during coverture —

So always if the party injured dispents and could not before, well recover or hold to the agreement the other party, the omission don't bar the action 2 P W 82, Skinner 409 1 Ch ca 21, 1 Atk 269, 1 Saw 422, 3

A consummated contract may be rescinded by one party when this power is designated on condition in the contract thus A sells to B in house, proviso he may return him if he does not 1 D Rep 135, Cowp 818, Doug 23, 5 T Rep 201, 2 East 145, 3 Esp Rep 145 &c,

1 Ves Ch 351, Release

And if A engages to pay what B shall say, the parties may rescind their contract any time before accomplishment, tho Law says it being in B's power prevented, 1 Ch 41, 16

Releases are 1st Express, viz in writing or implied, by destroying the instrument 1 Raw 416

If the prevention is on his part whose interest the consideration is, this party can't sue the other, tho the latter may sue the former, thus A engages to build B a house, but fails, A may not sue B, but B may, thus A engages to marry B at such a time, but before the time arrives B marries C, here A may sue, but not B 8 Co 91. 2, Cro Ch 374, 1 Raw 265, 420, 1 Mod 206 — 1 Mod 210 B, 1 Raw 419,

So A makes a feoffment or mortgage to B, redeemable on payment in 20 days, now if at the time of payment B is out of the realm — A may enter, tho B will recover the money, because A mortgagor here the agent of B — see Ch —

A simple act of a lower degree may be wholly determined or annulled by a subsisting contract of a higher degree of the same nature

Thus if for a simple debt of 100 B gives B a bond the simple debt is merged in this bond ccc. B would recover 1 Roll 6 Rolle 45, Dere 210 Bul nisi, 155, 1 Burr 9, 3 East 251,

But if this bond is given by a third person it is only a collateral security to the simple contract 1 Bac 423 margin

A con — of a given degree cant be merged in one of the same degree, thus where A gives a second promissory note, the 1st will not avoid the former 1 Burrow 9, 6 Com 579, 6 Eliz 417, 817

But a con of a higher degree is merely annulled with one of an inferior degree — the latter is not disannulled — But it must appear that the former con is not turned into a specialty 1 Bac 19, 3 Salstrad 256 6 Eliz 644, 1 Bac 218, 223, 225.

A con by a deed or a specialty cant be annulled but by the like instrument 6 Com 254 Ellerton 192, 6 Co 44 Hanna 291, note, 1, 2 Wil 370, 86,

Nor is the delivery of a bond to the obligor
dont annull it, for if the obligee sue he can
it twill bind Palmer 116, 6 James 99, Dav
426

Nor an ordering to strict payment be
held the discharge of a bond, for the release
would not be equal to the contract

So an accord plead is not effectual 6 Mod
244, Elbeton 192, 7 Mod 141, 6 Coke 434, 6 James 99
650, 6 Eliz 46, Elbert on 145,

Where the right and obligation meet, the
contract is dissolved, seeing a man cannot bind
self be creditor and debtor, thus an executor
is bound in bond to his testator, no con
for he contracts himself 8 Coke 136, Salk 304
2 Ven 254, 5, 4 Mod 62, 10 Ditto 518; contra vide
1 Day 226, So if the obligee marries the obligor
for ever the wife or husband can sue 1 Ros
438, 9, 444

If a bond is made by the parties to take
effect after coverture either before marriage
good, for then the covenant in deed is as sole
Hob 216, 6 James 171, Sal 325, Lev Ray 515
5 Ed 4 381

349. Contracts made in violation of legislative
that A engages to shoot flowers to B, but N
municipal laws after the contract is made
interdicts. — See 1 Bos & Pul 148 — 1 Esp 8 — 4 Esp 182 — 1 Ld Raym 748
A is to leave to B land near the
turnpike road, blown down 10 Mod 208
1 Lev 98, 1 Ray 73; So if A sells a horse to B if he
dies B can return him Palmer 548,

Illegal contract to serve in labour Bone v Lai
new if settled during the year, the contract
is wholly void. Lord Ellenborough gave a case in Colo
1 Saund 448 — or a neither can in this case perform
his contract

But if a contract is only partially impossible
he must do what he can, but be performed
Thus if the contract is to build a certain
house to deliver a lot or a house, but the house
is destroyed by lightning or part of the lot
by earthquake, it must perform so far
as can Plowd 284,

If A is bound to convey an acre, B will
compel his heirs to a conveyance 1 Equity
18,

The act of a Prince, can with no way

a contract, thus if it binds himself that
J Stile shall appear at court in 6 days and
if J S is found guilty he it will pay B, if
now J S appears in four days and is adjudge
guilty it need not pay Paw 454 Tr Jones 441
1 Paw 415, 416

Action on Contracts

1 Debt

Debt is an action of money due by contract,
Blackstone incorrect when he says by effect of
contract for it may be in plea 3 B Com
154, Esp Dig 132, Doug 6, 1 H B 350

The action of debt has been recently revived
again but without its two inconveniences. now the Pltff need not prove
the precise sum unless the precise sum has
before been specified, but simply the con-
tract 1 Ins 153, 3 B Com 341, 343. 2 B Rep 122,
1 Doug 6, 70 note, 1 H B 249, 550, —— 6 Bell, 6 Ins
219

351 These actions lie in Simple and Special Debt Contracts

1st Simple.

There are some cases where an action wont lie on a Simple contract viz where there is no consideration on the part of the promisor 2 Bos & Pul 185, 187, Cit Dig 172.

The action of debt lies on promissory note as on the drawer or maker, but not on any indorser, for there is no consideration, he is no party to the debt, this only contract that makes an action will lie 10 East 38 Chitt Bills 221. Dr & Ing. 680, 8 Mod 370. Cit dig 173

One promises to pay a certain sum for goods delivered him or to others on his account or services rendered to him or to others debt will lie, but if one promises to pay the debt of another, this is ground only of a sumpsit 3 Burr 1880, Cit Dig 173, Dyer 21, 6 Chitty bill 226, Cook Chas 107, 140, 193

And where the person to whom the goods or service is rendered was never liable, the

promisor, must be liable - Ibid.

But if A delivers goods to J S with my collateral promise, this is only to aid J S credit
1 Ray 842,

So an action of debt wont lie against the payee of a bill of exchange, but only the original drawer Salk 23, Ch bill 226, 1 Rol 597, Dire 21 A, 1 Ventris 182, 12 Mod 345,

In the action of debt as it now stands the Pltff need not prove the whole debt 3 B com 155, 2 BR 1221, Yaug 6, 700, 3, 4, note, 1 H B 2 44, 550

An express contract is not always necessary in the action of debt, only thus the debt should be specified or 10 thus it may be absolutely, thus the Sheriff may sue on this action for money received, tho he never has bribed the employer Hob 206 2 Bac 14,

And this action will lie where there has been not even an implied contract, thus a public criminal forfeits a penalty — Here, dont the matter rest in contract with Loci

92-2 This penalty must be fixed in sum by the law when the felony was committed, it is not certain. 2 Bac 14, 1 Roll abr 98, Cowp 982, 3 T Rep 448, 2 Dilto 208. 4 Dilto 756, 7 Dilto 254, or 9, Hurby 179

An action of debt will not lie for damages unless the sum is certain or can be made so, not tho by the minds of jury — Now damages are in their nature uncertain —

But when the damages are ascertained an action of debt will lie for the sum, for tis then certain 2 Bacon 14 1 Bac abr 301 Hob 203 2 Term 403,

Debt will lie on an arbitration, but the money must be certain 2 Strange 923

Debt. The Deft must not be taken in person by way of execution — or have been discharged by the consent of the Pltff 4 Bur 2482, 1 T R 557 3 Dist 525. 8 Dist 123, 5 Mod 18, or his goods have been taken by way of execution, otherwise in all these cases the Deft may be harrassed forever, Salk 323, 2 Mod 204, 1 Wils 221, 2 Bacon 3

Debt

In England execution must if at all issue within one year and one day after judgment given, and if execution is in effect action on debt is the only resort 1 Sid 351, Carter 30, 2 Bac 361, 2, — 2 Bac 362, 6 Mod 364 1 Roll 899, 6 Mod 288

Execution

Where the execution has been interrupt. or suspended, vide the above authorities

In England too an action of debt may be brought during the time of execution, 1 Leh 637, 1 Roll 601, Carter 30, 3 B Com 421, 1 Leh 637

In Com no time for execution has been limited, and a debt may be brought perhaps anytime after 4 or 5 years, during the period no action of debt will lie if recovery can be had by execution — for it would be harrassing

When execut. on cant be taken out, action of debt is good, thus if the justice renders judgment and before execution indict Com 38

Debt

95.55. Where the omission of execution has been too long, debt will lie -

So if the Pltff cant bring an execution to its full benefits of judgment, cause the debtor absconds, he may bring debt or a fresh execution Kirby 311, 421.

So judgment remained in a foreign State may be cured by debt, for this is the only security Kirby 177.

So held by Ct of Con that debt will lie for recovery of interest due

So an erroneous judgment will admit of an action of Debt, for who shall say the judgment is not correct, but where the judgment is void ab initio this is a ground of action 2 Bac 211, 8 Cobb 142, & 3 Wils 345, 5 Pet 458

The judgment of each State shall be valid in the other, by the Constitution

Here does this article mean, the existence

foreign judgments or their correctness, or the evidence of the debt; the former would be admitted by the common law, the last must then be intended — this has been decided differently in the States, Dal 214, 188, 2 Ld, 2 Dit 302, Chain 460, Kirby 145

The action of debt will lie on foreign judgment Doug 1 St. 109, 2 H B 410,

And this action need not show the correctness of the foreign judgment Doug 1

No foreign judgment is to be considered but at the request of the party profiting by it 2 H B 419, 2 Shower 232, Bay 473, Mo 59,

Where foreign judgments are in use their laws must be proved as facts at trial 174, 5, 6 Mod 195 2 H B 410, 3 Lev 221,

Before the constitution was made, two nations, the cause of the debt judgment — now the not Kirby 125 Doug 1,

Inhabitants of a town not will lie on a foreign judgment Doug 4, 5, 6, 1 Lev 296

It has been said that where indebitatus of assumpsit will lie action of debt will — an inversion of the rule would be more true.

Indebitatus assumpsit, and will recover a sum — when payment — Thus where money is obtained by fraud — or money collected by an agent who retains it Doug 6, a Bur 1008.

Where judgment is void, no action 3 Wilson 341, 2 B Rep 845 — 1 Stra 509, 2 Det 993, 2 Wm 47. 6 Jones 214.

Action of debt will lie on foreign judgment —

On bond and single bills, action of debt only will lie 2 Bacon 13. Ent Dig 198 Tidd 464, 608. 187

This is the proper action to enforce a government Ent Dig 198

When the bond does specify the time of payment, then action may be brought —

any day after its date 7 J Rep 124, Doug 369

Questioned if on bond the Pltff may recover more than the penalty, if the principal & interest exceed the penalty, justice dictates that one should have his money with lawful interest, but the condition of the bond are specific and the law must enforce it 2 J Rep 388, Doug 49, 2 Sound 106, Ba 94, 2 Burr 820, 4 Det 2228, 3 B Com 152, Pai mort 146, 1 Atk 75, 3 Brown Ch 489, 6 Mod 303 1 East 436, 3 Det 604,

This action will lie on covenants if the sum is specified Str 1089, 1 Hall 591

Where one engages to make a fair report of moneys received, & omits to pay it accordingly — good action, Doug 369, 2 J Rep 388

Debt is the proper action on a bill tho' the action of assumpsit is generally — for tho' an act may be given

Debt

Where there are penalties in covenants the Covenantee, may sue for damages or bring action of debt for penalties 3 Bur 1345, 2 Bur Cont 136, 2 Atk 371, Ath 537, 2 Str 193 2 Vers 28, 1 B & A 418, if the contrary do not appear — thus a gives bond to B, that he will not plow his lands on forfeiture of £100, now if he plows, B may bring action for the debt or sue for damages

Thus action of assumpsit against the Sheriff who has collected but refuses to pay in, 2 Bacon 14, Cro Car bill 220, Moore 866, Hob 206, 2 H B 550

This is good action for rent reserved in lease Lit Rep Ser 572, Esp Dig 188, But not against a tenant in sufferance Esp Dig 188

This action was recover the fix articles the Sheriff takes to sell as goods but retains them Cro Jam 514, Hob 206, 2 Bac 14

Action of Detinue

This action lies for the recovery of specific chattels and is in effect a bill in Eq.
The judgment on this action is for the Pltiff's restitution of the thing sued for and when the thing cant be regained its value, and damages for retention
1 Inst 286, 3 B Com 152, 6 J 361 2 Brown 45

This action wont lie for articles which cannot be specified or distinguished from every other — not for a sum of money in the abstract, but in a certain chest, bag &c, nor a bushel of corn but of in a certain box, not for a guinea but a certain guinea — 1 Roll ab 606 Com Dig tit Detinue B, 2 Bac 467, 6 Mod 457, 1 Inst 286

Detinue can be brought only where the Pltiff got the articles by legal possession
For this action sounds in contract either

express or implied & therefore the prescription was matter of agreement

Finding any articles is inferred in law taking possession by contract, as the finder is agent to the loser Com Dig tit Det. D, 1 Roll 606, 2 Bac 46.

To debt an detinue may be brought in the same action, one for money, the other for specific articles

Debt and detinue are the same in nature one debt in money the other in articles, the sum and articles must be specified in both cases 1 Roll 606, 2 Bac 47.

The action of trover will lie in all cases that detinue will, tho not vice versa

Plus trover sounding in tort dont require that the articles should have been once lawfully possessed, for trover does not like detinue presupposes any contract

This action has not been used in Eng.

for more than a century the action of trover being mostly used — trover is to answer what a pumpset is to debt Moore 450 Cr. 244 Ellerton 178 2 Bac 45.

Action of Account

There are four actions for suing in contract Debt, Detinue, Account, & Assumpsit

The action of account is brought on a contract express or implied that he who has received money or a most is to account for it, but fails so to do and can be brought only against Guardians - Bailiffs & receivers joint merchants & joint tenants by common law 1 Inst 172 a, 90 B, 1 Law in pri al, 1, 2, Watson on Partnership 227, By St against joint tenants if one took more than his proportion 1 Bac 17, 1 Inst 172 A, So at com law only between the original parties, did not extend to executors and administrators 1 Inst 89, 790 F #117, Barion 17, but now by Statute against

Executors and Administrators 3 B Com 164, 1 B 17.

A Bailiff is an agent who has received the money or property of another to improve for the owner and account for it — all for a remuneration 1 Inst 172. A. thus a factor 1 Inst 172 a

A Bailiff must account for the profit which he has or ought to have received Dig tit account 13, 1 Bac 19.

A Receiver is one who has received the property of another for which he must account, all without remuneration 1 Inst 172 a 1 Roll 119 thus a receiver a debt due to B but for it has no remuneration Dig tit account 4.

Exception to the rule between joint merchants 1 Inst 172 a 1 Bac 19, 21

The action against a receiver must be against Bailiff even he would be a fraud if his remuneration

1 Roll 119, 1 Inst 172, St 1 Bac 19, Statute of Ben

<u>ist account</u>

In all cases where the action of account will lie in Eng will lie here — and so in many more cases

The action of account will not as a general rule lie in tort, but only for the King and infant, if their property is wrongfully taken, the taker is considered as their agent 1 Perr 436, 11 Coke 89 a Vern 95, 342, 11 Eth 489 Ch 229, 1 Inst 89, 91, 172

If this action is brought against the Bailiff must be mentioned in the declaration

It is said this action wont lie for a certain sum, thus a merts in to B's hand £100, now the action against B will only recover the interest 1 Bac 19, 2 Brownlow 76, Hobart 206 action cant be brought against Bailiff for the recovery of a certain sum to B's use

364 Cit 3, 1 Inst 172 et, 2 Mod 101, 1 Roll 14, 22, 116, 1 Com. tit accounts a 4 This action is seldom brought in Eng.

Where the money is to be redelivered on a certain event, this action may be brought Cdy tit con a 4, 1 Roll ——

But in Com an action will lie for a uncertain Rule 163

The action of account wont lie against infants, for they are unable to make any contract or account for a ne 1 Bac 17, Com Dig accounts (2) 1 Roll 117, 1 Inst 172 et

If the receiver makes an express contract to account, the action of account ceases 1 Salk 9, Carthew 89, 1 Bac 20, Rule 164 364. But if such express be brought the Plff need not particularize but merely prove the promise and damages resulting from its breach. Salk 9, Carth 89, Cdy Dig 97, 1 Bac 20,

This action is seldom used in this country,

the rarely in England

Account

If one finds the property of another the owner cant bring an action of account, for this action is always founded in contract, i.e. by contract of the parties Dig tit account

In the action of account there are two judgments, 1 That the Dft shall account, 2 That he shall be gaverned by the judgment of the appraisers or insphellors

The court appoint appraisers who do their business out of Court 1 Wils 99, 12 Mod 42, Com Digtit ~~accounts~~ account E 15, 2 Su ep 150

Before these auditors the parties not only are allowed but often forced to give testimony themselves, for who knows the parties know all their own contract 3 Wils 99, 117, 6 Elizb 84, 806, 10 Barb Digtit account E 11,

In this action specie of fact must be true

367 only by the jury

Assumpsit

What is pleadable in bar of this action must be pleaded in court — not before auditors, and auditors will here nothing but what should come before them
84, 116 Stiles 411, 1 Bacon 21, 7 Wels 78, 101, 113, 6 Charles

Nothing can be pleaded before auditors which has been pleaded in Ct seeing the judgment of the Ct would be falsified 6 Charles 84, 8 Wels 113, 2 Day 110

Also there is pleadable before auditors not pleadable in Ct thus If a Bailiff, lost in fire at sea the articles in them held Com Dig account E 11, 1 Inst 89 a + b 3, 1 Roll 124, so also sold or taken by the public enemy 4 Coke 84 a Com Dig account E 11, 12 1 Bac 21,

But the Bailiffs selling certain perishable articles without special permission not admissable 2 Ellod 100, 1 Bac 21, Com Dig tit account E 12

And a Bailiff is to be remunerated

this may make one part of the settlement
1 Inst 89 Co Dig account E 12,

But this is not the case where the Bailiff is the author of his own wrong — as taking the things of an infant, said 1 Leonard 219, Co Dig E 13

But a receiver is allowed no remuneration 1 Inst 172, Com Dig account E 13

Inasmuch as the D refuses attendance upon auditors the account goes entirely against him, 6 Eliza 806, 3 Wils 117 & 2 Lev 71 & 1 Bac 16

What is pleadable in bar of this action?

Any thing to show the D is not liable to account, as never Bailiff, never received 1 Bacon 20, 1 Rolle Ab 121, Com Dig tit account E 4

So a release of all actions 4 Bacon 85, 1 Rolle 123 1 Bac 20

So also an award of arbitration, that the D need not account, for this is a release 4 Bac 85 & Cases — 6 Eliz 830, Com Dig tit account

369 Co. 5, 1 Roll 122, 125

Account

A plea that the Plaintiff has received no good ~~Debt~~ Dire 22, 145, 1 Bacon 20, 1 Roll 123 Cooke 7 Co. 1 Wms 113 1 Roll 426

Release and a full account is a good plea in bar 3 Wms 113, and these must be specially pleaded 3 Wils 113, 114, 1 Roll ~~[illegible]~~ this is a great case

Before the auditor the parties may join issue in either law or fact.

In equity this action is brought before a master if the account is up, then is a bill and decree 3 Ver 141, 142 account

In action in Law is brought in Chancery and then the Defendant is arrested 3 Bac. Ab. 381, 2, 449, Mat part 228 1 Bacon 16.

If one or both of the parties is dissatisfied, there is an appeal to the K 1 Bacon 21,

In Eng the action is so little used, we do not know for what causes an award will

be set aside. but in Ex. the particular causes are specified. 1 Root 208 & 13. 2 Day 115

But the Court will generally enquire only of the auditors in case the parties dispute Pirley 353. 1 Root 139. 261. 268. 2 Day 115

Notice and Claim

In all actions founded on Contracts, it is necessary that the Pltff inform the Deft of the suit, which information is after the suit itself 12 Mod 92. 10 Ed 88 3 Salk 308. Com Dig tit Pleader C 70

So always the Pltff must give notice if the action depends on a fact which the Pltff only could know, especially if Pltff is supposed in the contract 1 Salk 351. 6 Com 432. 1 Roll 403. & Dig tit cond L 8

Ex. - when B shall arrive give A wrote to him so and so, B must inform him Com tit notice A tit cond L 8 & cond 5. Kat-

377 108 Thus if to B when B shall be married if the particular person to whom he is to be married is mentioned, so that it may learn of the third person, B need not give notice — 6 Dig tit Plea 675, 6 Eliz 224, 250 contra 34 H. 8 p 53. 6 D tit Plea 673 —

Also so B need not inform it if it is to perform when B shall sell his horse to C — 6 Dig Plea 675 6 Jam 102, 228, 405, 1 Bulstrode 44 Hob 68

Also where notice must be given, it must be given in season — 1 Roll 269 6 Dig Plead 674

Con Rule the promisee is not to give notice if any other person can give information 1 Roll 402, 3, 2 Bulstrode 144, Hob 14, 2 H Black 315, 6 Dig tit condi 69, tit Plea 675, 8 Coke 92, 93, 6 James

In such cases when a special request

is specified in the contract, it must be made 6 Eliz 85, 231, — 6 Eliz 83. 4, 91, 6 Dig tit Plea 6 69, 3 Salk 308. 6 Dig cond 2 41, 3 Salk 308 3 Lev 200, Lant 93, 209

When an actual request is to be made the declaration must mention the time and place of the request — but if no actual request is to be made, the usual form, "tho often requested"

Thus if Leper engages to cover or repair Lepar's house, Leper must request Lepar he can bring out — 6 Dig tit one L 10

Where notice is required the time and place must be mentioned as a gen rule not the case where gen issue involves a denial of the request, 6 Mod 183, Lutwich 231, 6 Eliza 85, 6 Dig Plea 6 69, 6 Eliz 74 85, 3 Bulstrode 299 Day 188, Palm 389, 3 Salk 308, 6 Eliz 74

372 Where tender is insufficient a single
request is sufficient 3 Salk 308, 1 Ellen 25, 3 Salk
308, 6 Cobb 30. 1 Mod 208, B, 6 Eliz 71.

The Effect of Covenant

The action of covenant will be brought for
performance must be in the whole, for
damages in the other Cole 27 Do 149, 155. 10 Co
Rep 2 Sid 341 1 Ch 372
The covenantee is entitled in money
but in no case the same be brought 6 Eliz 212
12. 1. 8 Cod new 287. 3 Leon 229
[illegible] to the above rule (in Eng) not
in some.
[illegible] parties can go to Ch
[illegible] may [illegible] to B here
[illegible] to the enforce performance
[illegible] towards [illegible]

Covenants are indeed or [illegible]
[illegible] complied, a [illegible] covenant

are real such as relate to real property, and
personal such as relate to personal property
generally. It will be convenient
first to treat of the last. Ep. 265 to L. 11
384, Dig. 1. 39, 5. Cod. 6. 2. 17. Ep. Dig. 2. 94.

Genitus is known the spirit of covenant take the whole. Barrow 290. 1 Bac. 1. 7.
Ep. Dig. 2. 67. 1. Cod. 10. 3. Cod. 23. 5. Ep. 241. 10. Ep.
275.

Covenants relative to land present
and to come. 2 Cod. 1. Ep. 19. Co. Litt. 19. 2.
Mod. 97. Ep. 267. 2. Cod. 70. Ep. 273. 6. Ep. 275.

Mere covenants are to be construed in de
5. Ep. 689. 10. Bac. 39. 2. Bac. 140. to Litt. 3.

Words are to be taken in their usual
acceptation. Ep. Dig. 271. 1. Bac. 254. 1. H. B. 270.
1. Bac. 229. 1. Selw. 150. 1. Saville 251. 1. Bac. 39.

In covenants if there be a breach the
act of God, or the covenantee is not
[illegible] the covenantor is excused

Covenant

An action for damages occasioned by the assignee of the covenantor, when the covenantor is not liable, the exculpatory clause in a lease in favor of the assignee, that said assignee undertakes to pay the rent, which is generally stated. Bacon 1540, 1 Ld Raym 360 Salk 178, 4 Bl Dig 270, 1 Bacon 621, 6 Ed 211 Ld 290 2 Ld 618 1 Atk 113, 2 Ray 583 2 Atk 124

The action is given to two, first lessee & parties & lessees are cases be sued without [illegible] 6 Ed 1 Cp 158

A man first covenants and, in consideration, is supposed to be legally sued, the subsequent = [illegible] does not

Covenant or assist in of legal possession — covenant or warranty, release of possession

In the first covenant, an action may be brought immediately 4 Ch 8 Ed 266. 2 Atk 92, 2 Ed 299 & 1 Ch 301 6 Jones 170

- 2 Ld 91, 9 Co Rep 60, Cro Eliz 915

Covenant

The necessary only to aver that the Plt is not seised, and not to aver, as in the covenant of warranty, to show different title from the Plts

Co Lit 170, 4 Rep 57, 1 Ld Raym 35, 277 1 Saund 177, 1 Saik 455. 6 Eliz 915. 1 Cro 80 —

The Lessor does not by the lease in fee treated time and when transferred

Co Lit 122, 2 Com Dig Fine 2 c

In covenant of warranty, the last part of the warranty are only one of all warranties, that is, mean in collateral, crossway & lineal but all the same in the case. Co Lit 2 95, Bac Abr 158, 1 Bac 582. 6 Co 101. 5 Comyns 514, 115,

Against claim, recovered only prohibition from the vendor, 3 Leo 429, 2 Salk 1089

Co Lit 16 + cur 15, 8 Co 153, 6 Co Charles 175 - 1 Comyn Dig 107, 6 Co 114, 1 Salk 155, 4 Co Coke 547, Bac Abr 67, 1 Mod 153, 2 Eliz 118, 175,

Covenant

If the aggregate sum be mentioned
any installments carry gains by
debt untill they are all paid, but
in covenant 3 Co 22, 1 Co 128, Ent 20
1 Atk 118, 1 Wms 80, Ld 553, 1 Bull nisi 108

In defense of covenant and bond
2 W 267, 3 Salk 108, 4 B 134, 2 Ventris 198

1 Roll 112,

In covenant, and his heirs & executors will not
[illegible] the father —
[illegible] relate merely to the
act of the covenantor himself, here the
words are [illegible] 1 Co 128 2 P Wms 199
6 Elr. 553, 2 Com 563, 1 Roll 519, 2 Mod 269
2 Vent 213

For real covenant bind the heirs, the per
sonal, the executors — but in these real
contract the heir must be mentioned
Ld 494, 2 Com 561, 1 Bull nisi 158, 2 Levin 92
6 Litt 87 — Ent 294

Covenant

When a covenant [illegible] and

Allways where the thing concerning whereof the covenant is made was in esse at the time, or if not in esse, the thing be usual at the time of the lease 4 Coke 86, 5 Rep 16, 24, 6 Eliz 67, 1 Cawd 236, Bull nisi 159 ——

In these cases the assignee is bound tho not [illegible] nd ——

Where it is to lend a wall unto to whome he sells the lease, if assignee be mentioned in the lease —

2 Ber 1271, 5 Coke 16

3 Rep 383, 6 Eliz 553 2 Comy 562, 5 Coke 16

1 Ld Ray 1, 1 Salk 199, L R 888, 6 Mod 177, 9 Coke 22

2 Atk 1228, the first lessee is bound for all after him — 2 Atk 219, 528.

When the lessee assigns over the [illegible] & the assignee over both bound

[illegible] Coke 22, [illegible] mortgage

2 Com 56, 6 Ver 309, 1 Ld 354

The lessee can not [illegible] the lessor may recover on [illegible]

[illegible] 279 [illegible] Com 22

Collusion with

An assignment of a lease in property with the whole interest, if the lessee and partner with his whole interest, though the assignee is no tenant of the lessor, but only of the lessee

1 Ch 454, 3 Ath 234, 5 B 756

Ch 347

Vendor always favour the enjoyment of the property Dano 177

Where vested property is assigned, the assignee liable whether named or not 4 61, 1 Ch 176, 347, Eth 295 Bull nisi 158 Salk 141

Should the mind of the covenantor is always liable if he has assets 4 Com 564, Eth 294 Ch 365 1 Bac 534, 1 Ind 4

The sheriff has a right to sue the bondsman on sheriff liability, the sheriff may sue the bondsman, and the ~~debtor~~ creditor may after this sue the debtor, but then the sheriff must bind his money be received of the bondsman

The sheriff may give the land in lieu of the creditor may sue the sheriff or the creditor debtor — 3 Bulstr 2, 34 Hob 196, 3 Coke 24, 3 Wils 2, 74 Lowth 52; 1 Ld Raym 49 2 Ld Raym 100, 642, 379, 914, 1 Ld Raym 67.

Now it is asked how can the money against judgment be recovered — Because something has taken place, to make the restoration impossible, yet this is after the case an insurance, the judgment is not void at the time, the non circumstances alter the correctness of the judgment 2 Raym 105, 1005, 1 Raym 269 —

But the Defendant must make all the Defendants can else the total sum mentioned in the writ will be defaulted ~~Hob 96 a Bulstr 2 34~~

The an apparent claim liable Salk 96

2 Bulstrode 2 4. 2 5 1 Raym 104
2 Raym 100

980

Covenant

The obligor has no right to recover a debt in
from obligee when property is lost the bond
is an assignee — this reason will extend to
lessor but not to lessee, for the covenants go
with the land — 4 Bac 279. 6 Co 108, 1 Ch 345
2 Levin 206 — Debt is recover in the
words "all demands," but this is more clear
for a covenant ~~for~~ till it is broken no
demands — the reason of covenant will
release covenants

Sir 307, Saund 160, Co 79

2 Show 90, 5 Com Dig 35, 1 Salk 171

Pl are not part to state in a declaration, that
the covenant was in deed, Lev 98 Co 614
6 Co 109, 209,

Pl not necessary to recover the covenant, the
action may be brought, but is recover & lost
there must be good evidence upon con-
tents, there must be clear evidence that
the loss, none here.

282 Not by time & accident but merit technical

tion, stole it, or when looking at it, tore it

Jth 168, Eth 298, 3d Rep 150

In declarat. on the substantial breach of the covenant must be mentioned,

If the covenant be general, the breach must be general but qualified in certain cases, & the breach must follow the covenant, 1 Salk 139, 2 Raym 478, 6th 369, 5 Cake 60 Ej 2 Co 8 c,

The assignment of the breach must be direct not inferable

Cite the general rule follow the wording of the rule where general or particular

6 Ellis 248, Eth 299, 3 and 8th 2 Ej

If there be a proviso in the defeasance on condition, the plaintiff must state the event, this the Def. is applied in special matter

Ej 302

But when the proviso is in the body of the

covenant, it must be mentioned in the
Condition Co. 300

When the Covenant is to do one of two things
a breach of both must be declared St. 223

If one is to answer a covenant on the
happening of one of two contingencies, when
either has happened, the covenantor
must be sued 2 Chay 136. Co. 301

If the Defendants assigns are bound to
non fulfillment of both must be de-
clared St. 228

If the covenant is for doing a thing ille-
gal, this specific act must be declared

In affirmative covenants the time of the
performance, and the circumstances
of particular nature of the covenant
must be strictly pursued, the time must be
mentioned specifically in the performance
insufficient to declare

384 Nothing may be tried under that is a question or involves a question of law 4 Bar 91, 1 Salk 498, 6 Mod 359, 5 Bacon 82, 236, 5 Com 82 Salk 67, 107, Bar 92

Negative Covenants are in to be not performance —

In bond a covenant to support the not a manifestation is good plea, but when the quo modo is stated in the bond, then quo modo as well as indemnification must be pleed

Cowper 274, 3 Ves 244

6 Bac 234, 6 Com 215, 8 Ves 910, 4 Bac 92 answers 6 Mod 963, 621,

Independent covenants & consideration can never be pleed in bar of each other

2 Vent 217, Salk 305,

Joint & several covenants & severally all, or each of them may be sued, but one satisfaction will be a release

3 Ch Ca 782, 3 Bac 69 & 7

11 Ch 393,

But when they are only joint tenants, with
they can be sued on joint 2 St 1146

One of the joint tenants may sue without
the other, if the particular thing sued for
is severable in its interest, But if the con-
ventio joint, is severally, and the in-
terest can be several, the parties cant
sue ~~only joint~~ severally

1 Bar 696, 2 Cake 48.

7, 1 Bur 223.

~~[illegible]~~

Assumpsit

This action is founded on contract, express or implied, for action of debt was and unknown to the law before assumpsit.

Assumpsits are either express or implied.
Express assumpsits are those where the express promise, these are to be proved in court.

Where a debt may be brought, express assumpsit may be
If the express promise ascertained, debt & express assumpsit may be brought, but where the contract is implied & damages uncertain express assumpsit only maybe brought.
The action of debt can be brought and view the court & completed & the sum specified.

Implied assumpsits are founded on moral obligation, therefore the law implies a promise.

G Rule, Where a man is bound in good conscience & justice, this action will lie

Exception Where law forbids or the law of st of limitation — and where the contract is gambling [illegible]

The action of [illegible] is [illegible], the action [illegible] for [illegible] the [illegible] is considered as the [illegible] and sentimental [illegible]

Where property bought from the [illegible] owner & money is paid — If the consideration fails as it will in this case, assumpsit [illegible] to recover the money paid & received.

The [illegible] every [illegible] in this action

Money [illegible] illegal [illegible] the [illegible] can be recovered, [illegible] contract, but when the [illegible]

are the same the Contractor has an only is
Justice

Bull vs 108. 1 Barn 53

Upon a strong point, you recover what
[illegible] for or notes, but in the an-
tient & intelligent person that, whatever
was stated in the application, you will re-
cover upon the strict point in is part
in the case now used to the Prince
command, in the last to what is justice

Tyrrel vs B. 5 Mod 181

Where an action for doing the duty
a notice — only where the duty is
binding on some body if the real obliger
does not perform, or neither who is bound
in this case, Then the person may
recover for what he does that is proper
to recover person the regular, & cir-
cumstances must decide what is proper

[illegible] the contract was to
be [illegible] is assumed

Assumpsit

to pay performance, but he may be sued for performance generally

There is an agreement both parties are adducing consideration, and neither leave upon the other —

And even an action lies in this case for consideration before he does the service is proper treatment to the villein — & too the person receiving the money & the can hold it without committing the act, he would be limited to act

Contracting both usually transcript the law and more clover & the parts were weak & against meers & &c

That action should be brought to recover in an advertisement — trade stands no contract — am bound but if not any — for apparent, unsimplified one,

If bound the promisee [illegible] at the [illegible] [illegible] [illegible] in the case [illegible] [illegible] order

389 [illegible] is by loan

[illegible] to be to pay over to [illegible] here

[illegible]

[illegible]

2 [illegible] 9.8.

How much can a man claim in good conscience, upon a loan money, should be the [illegible] 2 [illegible] 266

[illegible] to B, and B may [illegible] against A, the B cannot commence with [illegible] A,

[illegible] collects too much by his attorney or agent, of whom are [illegible] plaintiff be [illegible] against them [illegible] not [illegible] it over

[illegible] 197, [illegible] 1984

2 Ley 1210, 4 [illegible] 1034 2

In loan we must be had money in hand
received, or else the Court know for what
purpose —

When may one recover bills from wrong owner

J. Rep 828, 1 Ch 239, Cowp 197,

The money man, not to recover from bona
fide owner other property may be by trover
or [illegible]

When may the assumpsit be
brought [illegible] — an express promise
to do a collateral act —

[illegible], where
there is no express contract, & the damage
[illegible] contr. principle

The Defendant in this action

In action of debt there must be privity of con-
tract, [illegible] on the [illegible] Hamilton
[illegible] to give evidence

Plaintiff meant that nothing
more and, and that there was no one
thing upon which the plaintiff
made the defendants the consideration, so there
was no consideration, ignorantly at the
time of the promise, so whatever others
have in our validity,

Philip Mitchell Esq 108
Illinois Reports Appellate Court

Nonsuit, affirmed

Statute of limitation

Upon this plea, it must be conclusively
not occasion in evidence

The certificate here is not an assent
within the statute of limitation

If the defendant expired, after the
trial be passed upon, this promise
will support an action ——

Whatever is said or done in the D

express or from construction implies a
waiver of the statute of limitations, where
the contract of the defendant is such as
could not be sued upon, except upon
the supposition that the consideration
of the debt does not exist, or the plain
tiff has an absolute, or qualified, or
good ground of action — 4 East. 148 —
2 Bos & Pul 362. 6 Mod 103, 6 Mod 100, Cowp 44
where the Lord Mansfield says the presumption
that the debts are paid, when barred
Cowp 548. 3 Ch Ca 84

The doctrine of waiver vide Cowp 230 2 Ch Ca 428
1101. 2 Show 126, 2 Ven 151, 3 Bos &
4 Dist 5, 2 Str 1170, Ex 182 & Vet

Limitation Page 629 -

Point is not taised, the amount of original
claim is the consideration when the statute
contemplated would

[illegible]
[illegible] must [illegible] alleg
any other than that of [illegible] or any
other, which can be taken [illegible]
[illegible] 1780, 8 [illegible] 381.

Suppose that in one state limits
[illegible] but not in the other state bar-
[illegible] in these two states, now
if the [illegible] [illegible] can recover in
[illegible] it but not in the other, in this
last state [illegible] can be pleaded
only in abatement.

[illegible] of persons moving
from one state to another after the [illegible]
[illegible] is given, thus from [illegible] to Newark
[illegible] of limitation can be pleaded only
in abatement.

If A [illegible] in [illegible] which will
[illegible] then A moves
[illegible] is [illegible] lawi
[illegible] York
[illegible] could be pleaded to
[illegible] ally belongs

[illegible] be [illegible] only [illegible]
~~bar~~ abatement

But where the bar is attached in his count, that the bar in his not the bar and goes to the bar [illegible] [illegible] as [illegible] the action [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] as in Court, [illegible]

[illegible] may [illegible] in [illegible] a good bar, but [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible] lease

[illegible]

[illegible] lease

[illegible]

[illegible] lessee

[illegible] lessee

[illegible]

[illegible] lessee

5 Lia. 250.

The Notice to Quit is awarded by the Lords if you always keep ready, lest you come get the notice, you must wait till the time out

Paul Lanig. 1 Ld Ken. 5 Bac. 5

and if [illegible] lot [illegible] lend [illegible]
amount [illegible] bailiff

[illegible]
[illegible] with the [illegible] [illegible]
Bailiff [illegible]

and if there is [illegible] [illegible]
can lend [illegible] [illegible]
[illegible] nothing [illegible] [illegible]
tion

[illegible]
[illegible] it be in collateral [illegible], wh
ever lender is [illegible] [illegible] [illegible]
debt, if not [illegible] [illegible] [illegible]
[illegible]

[illegible]

or a lender there must be an actual
offer, not a promise [illegible], [illegible]
[illegible] [illegible] will not [illegible]
[illegible] anything to do with [illegible]

[illegible]

[illegible] a good
[illegible] party [illegible]

397 St. 946, 5 Cobb. 115, 5 R. 683, Doug. 14

Will a rent on the lease of the Boundary what manner may be renewed

Cannot without express to make change

[illegible] must determine it —

If a man a life lease [illegible] than the [illegible] the first may be recovered —

[illegible] 208, 5 Cobb. 115 1st [illegible]

If long term [illegible] no obligation [illegible]

[illegible]

If [illegible] the manner?

[illegible] the manner to be [illegible] to the [illegible] or [illegible]

[illegible]

to make a tender to him, and it is not
no person to whom you can tender your
money.

If the vendee be absent, a tender
must be made, at his dwelling house, where
the contract was made, but if money is
tendered, it must follow him wherever
he remains his domicile. This is where
the place of tender is settle in the contract

So a bill or check must be delivered at
the real residence if it be not more inconve-
nient than the residence at the time
of the contract

Since when the vendor is to request the
vendee or of a merchant, the delivery is
[illegible] make tender without
a request

A tender must be complete and full
it cannot be, and one is not bound to take

899 3 Bac 712, 5 Bac 7, 6 Ent 10, 11.

Where when the tender is to be made on or before a certain day, it need not be made till the last day, or if made on the day the creditor is at home, is to be down

Where the tender must be made at the last part of the day for the creditor, so if the creditor is not at home in the morning can not call so long as can count money to day

3 Bac 710. 6 Ent 211. 6 Ver 73, 14, 6 Ent 202 206. 1 Salk 624 1 St 777. 3 Levins 104 5 Coke Rep 115. 4 Rep 173 ——

When the Plaintiff is free — ~~Bac~~ no time

Where the debtor must give notice at what time he will pay 1 Salk 623.

The debtor is not to be injured by any [illegible]

So if I give bond to one in Can & he calls on me in Mass - I am not to go to Mass but must send his agent. Mor Pleb 1227.

In laid down that if I promise to pay B for C, tender may be made to C, but this is not right. C Eliz 755.

A tender made in court or after action is right, the tenderer must pay costs.

Where a person acquires a right by tendering to do what he ought to do —

C Eliz 88 C. 142, 1 Rag 53

401

[illegible] you have been alw[illegible] [illegible] you find him or not —

1 Bl. 223. 2 Ken 687. 6 Cler 888. 1 St 458. 4 Pet 189. 4 Cl. [illegible] 10. 1 Sidi 81. 1 Atk 31 or 81.

[illegible] authenticated he must not [illegible] be always ready for [illegible] [illegible] the [illegible]

Ld 76

[illegible] may be [illegible] in Ct, if black [illegible] but not [illegible] 3 Ch 374. 174. 1 Ch 3 192. 2 Pad 65. 192. 3 [illegible] 192.

Grand Council

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] accord [illegible]

an accord is looked upon as a prom

16 [illegible] 128,

[illegible]

[illegible] 88

[illegible]

[illegible] 197 301 [illegible]

[illegible] In Conn a note is a good satisfaction in an accord, for we have not adopted the Eng principle.

[illegible] contract is a bar
[illegible] the fulfillment of it. The
Plaintiff must spread upon the record
2 Wilson, Collins & Blanton
[illegible] condition was on one
side [illegible] to be no
[illegible] not so clear

[illegible] agreement is a bar
[illegible] the bar out
[illegible], when applied
[illegible] not affect at
[illegible] the adverse or post
[illegible] on the [illegible] made [illegible]
When the debt is satisfied the collateral
[illegible] must stand [illegible]
[illegible] Payment Payment is only where
money is paid —

Release A consideration must appear on the face of it, a recital in the instrument is not a consideration, but this is a mere presumption.

Where the consideration implies a debt a release of all demands does not release the contract & where the right to cover depends upon a certain act

Gotlett 292

~~Inferior court~~ ~~[illegible]~~ to Award and ~~[illegible]~~ [illegible]

An award is the decision of the arbitrators, Was much doubt in original cause of action as does a bar & has not in a defence

When a cause has been awarded the award will be the support of a [illegible] sent, let what will be the original [illegible] set

There are no authors farther in
Contract that may be carried aga-
inst Exist with the law. Crim-
inal actions, Divorce or matrimonial
causes

Can the action be a mere only money?
Damages are specific performance
damages or money. Plaintiff often
a right of action against property
and of course must be found on the
detention

Real property is held at law, or
at an equity through the lower
courts

Open and delivery of land as a
tenant to give a title to them

We have cast that in plaintiff at
law the master that a the tort con-
dition [illegible]

[illegible]

[illegible]

[illegible]

A ~~power~~ ~~award~~
now cant revoke a grant, but where it is a mere power it is in its nature revokeable. The ancient rule is if the submission is by parol there was no reason. Co Lit 82 Brown part 1 62 as 2 Roll 299.

The submission may be to A B & C or any number of them, & to all the jointly & be executed by two, if one is absent if to A B & C or two of them, the wait ~~[illegible]~~ [illegible]

The authority of the arbitrators is derived from the agreement of the parties.

The submission may be in writing or parol but if it be made the rule of Court must be in writing subscribed by both the parties.

The cases relying upon implied agreement are [illegible] 2 L 8 122 6 Cranch 281 2 L 96 1 Ga 75

The award, [illegible] unless otherwise provided by the parties, the decision of the Parties, [illegible] follows if any important [illegible]

The court, [illegible] fixed a rule [illegible] it. 8 Geo. 82

Who may [illegible] to [illegible] in an [illegible] to submit, [illegible] infant [illegible] is not [illegible] but only [illegible]

But [illegible] any man may be bound [illegible] an infant [illegible] Law 237, 3 Lev. 17 [illegible] 1 Salk. 280

[illegible] executor is bound by an award [illegible] 2 Ch. 228.

[illegible]

[illegible] £ 25,662

[illegible]

[illegible] £ 49,1[illegible]

[illegible] £ 500 [illegible] £ 49,1[illegible]

2.8

[illegible] £ 422 £ [illegible]

[illegible]

[illegible]

nation 1 L 1 ac 115.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Arbitrator [illegible] order at [illegible] award itself [illegible] is complete [illegible]

Arbitrators cannot relitigate [illegible] original authority. [illegible] 501, 509 [illegible] 1 Brad. [illegible] 308.

[illegible]

[illegible] ing to the

submission

[illegible]

[illegible] award

it was [illegible]

221 2 L Rep 189

[illegible]

[illegible]

Nothing [illegible]

[illegible]

[illegible] award [illegible]

[illegible]

[illegible]

[illegible] to have our consideration

[illegible]

Lands laid in Part

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[redacted] says the Statute of limitation cannot be given in evidence in a ~~trial~~ suit in another State, for these are only municipal regulations, which do not affect the nature of the contract, and why should one State interfere with the private Statutes of another —

J. Williams

— — — —

If a suit commenced in one State can be pleaded in ~~bar~~ abatement to one in another State

— — —

It seems now to be established that forbearance in ger is a good consideration if the Statute covers forbearance for a reasonable time

4 Johns Repts N York
237 — Lewis & Clark 102

422

still [illegible]

[illegible] contract for [illegible] years [illegible] a note [illegible] but it was [illegible] for a recommendation [illegible] 20

Exceptions where the consideration was done at the request of the promisor which [illegible] a moral [illegible] to recompense —

And where the consideration [illegible] and such a consideration has as much a retrospective as relative [illegible] to [illegible] in all the essential [illegible]

When a contract consists of considerations if one fails the other will be void of contract, but if one is unlawful it vitiates the whole contract

[illegible] ~~contract~~ consideration must [illegible] as the party promising [illegible] [illegible] 20 [illegible]

424. All contracts or agreements which have for their object that which is repugnant to justice or against the general policy of the common law, or contrary to the provisions of any statute are void — Page 31

[illegible] contract which has for its object [illegible] to the law of the land is void

Common law argument that statute [illegible] restraining [illegible] contracts, [illegible] contracts, [illegible] contracts [illegible] to prevent the course of justice [illegible] all agreements that [illegible] contracts with sheriffs, [illegible] wages [illegible] fraudulent conveyances [illegible] insurance, sale of [illegible] Lottery

Wager Policies, Smuggling, Bribing voters at Elections, Agreement to sign Bankrupt's bill, Sale of liquor.

Those contracts that are void by the statute of frauds & perjuries, if not in writing, are required that the writing should be in consideration, and the terms & specifications of the contract. [illegible] is a contract made void [illegible] for [illegible] the writing must be known to the parties & [illegible] all [illegible]

429

[illegible]

[illegible]

[illegible]

[illegible]

particular [illegible]

[illegible]

[illegible]

not an implied warranty

[illegible]

warranty [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]
[illegible]
as agency [illegible] the [illegible]
[illegible] no ligacy he cant obtain an
satisfaction
2 Comyn 405

Wagers not forbidden by statute, by morality
not contra bonas mores, or the public
peace are lawful - but the the person
that bet must be interested in the
thing, the subject of the bet

A contract for the sale of [illegible] when
either the price is settled, or the time of
payment is settled, or earnest is paid on the [illegible]
And if only the price is settled it is to be
paid in a reasonable time, if the time
is settled a quantum meruit will lie at
its expiration, and if only earnest is paid
a quantum meruit will lie in a rea-
sonable time - And in all these cases
the vendee can insist on the contract as
well as the vendor 1 Comyn 3

Where a man binds himself in a bond
contract touching the aim ~~the~~ which he
binds himself, the law makes it double
the money he intends to secure

1 Comyns 4th

Generally the law will not raise an im-
plied promise or contract where there is
an express one of the parties own formation
nor if the promise be a specialty unless it be void

1 Com 6

~~The contract in writing whether con-
sideration appear or not be binding on the
parties but in law ~~[illegible]~~ the exception
of ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~
with the parol promise upon a spe-
cialty must show a consideration —~~

~~The want of consideration cannot operate
against third persons, in concealed wri-
tings but only the parties~~

1 Comyns 12

A consideration to be good must be for the
benefit of one of the parties or the disad-
vantage of the other

1 Com. 13

a void instrument or debt or debt can not be a consideration for a future promise but if they were only voidable they will

1 Comyns 25

If there be two considerations & one of them fails the other is sufficient to support the contract. but if one of the considerations is illegal, this vitiates the other

1 Com. 26

The consideration must be such as the party has power to exercise & legally due 'tis no consideration

1 Comys 27

I suppose so far as I can learn that money lent for an illegal purpose (except for gambling) and goods that are sold against the laws of the land or any debt that arises ~~th~~ from an illegal contract, for these no compensation can be obtained on the contract, and further however one is bound in conscience to return the money that a new promise subsequent to the old contract, will have no consideration for Comyns says that only voidable

contracts are a good consideration and that void contract or when the consideration is void at its creation as in the cases above are never good consideration for any subsequent one

A promise to give money to an Officer to accept bail is not good for he is bound to accept bail if the good bail & he has reason to doubt as to the goodness of the bail, & should suppose such a promise would have sufficient consideration 1 Comyn 34

Contracts that are infected with fraud are void in law & equity & 36

Then an agreement to pay one so much money per pound, for recommending customers is void, for it has a tendency to enhance the price of articles 37

Each of the contracting parties is bound to disclose fairly & fully to the other all material circumstances within his knowledge respecting the subject matter of the contract, & an omission either from ignorance, neglect or deceit or accident, the contract is void

If the statute ordains a penalty to any act tho it dont forbid the act, or the making an contract tho it dont forbid the contract, they are illegal, because a penalty implies a prohibition

38—

A contract declared illegal by a st. is not made legal by a repeal of that st after the contract has been ~~made or~~ executed 39

If a sheriff let a prisoner go at large who is not bailable & secures himself by bond this bond is void 40 —

In Eng if a gaoler or sheriff suffers a prisoner to go at large and takes a promise from a third person to pay the debt himself or if the prisoner dos not, the promise is not illegal, only bonds should be taken for the reappearance of the prisoner — 41

The securities given for money at the time to gamble with are void but the contract remains & the lender may have his action 42

The following is correct, a mere writing is prude in Eng

In Eng, the Executor or administrator is not chargeable in proprio bonis for his testor's debt tho the promise be in writing, unless the

appears some consideration leaving to the executor for this is a mere contract of his for which there must appear a proper consideration, this rule does not hold in Eqn for every writing is here a specialty, but still these writings in Eqn ~~must~~ without any consideration appearing would not bind the ~~executor against~~ the creditors of the executor 49

And in all the cases or contracts in Eqn where a writing or memorandum is required by the statute of frauds & perjuries, the writing must impart some consideration to the promisor

Suppose

And so suppose that an Officer in taking bail must make the third person promise to return the prisoner to the court, a promise from him to pay the money would not be good 39—

If the person who makes a promise to pay the debt of another is himself liable originally either alone or jointly, this promise need not be in writing 59

If there be any new consideration moving

to the party making the promise, it is out of the statute, viz. the debt was then the original cause of the undertaking 59

In Engl. the contract be in writing tho not a specialty it is prima facie evidence onus probandi is on the shoulders of the Dfty, so in Con. viz. all writings are specialties they may be denied & only carry prima facie evidence

A verbal promise to pay the debt of another is void & also to do an act is void [illegible] the contract being written [illegible]

A promise to pay the debt of a third person in consideration of forbearance out is void unless in writing 67

Viz. a promise to pay the debt of another if he is discharged entirely not be in writing 68 This seems to be contradictory

A contract for anything in consideration of marriage must be made for marriage 73

Every contract relative to the interest of real property must be in writing 74. 79. Paul & Butler

Said the contract be for the sale of such real property as it was at the time contemplated to be, and the contract need not be in writing.

Any written contract ~~[illegible]~~ in Eng. ~~[illegible]~~ of a sealed is ~~only~~ prima facie evidence of a consideration. In Com. a written contract not a specialty is probably only prima facie evidence of consideration, for the unsettled whether a specialty in Com may be disputed as to consideration

Quere in these parole contracts if the contract has been partly executed, there is no need of a writing. 80

If part of the purchase money is paid in satisfaction part performance, but then the money must be a part of the purchase money 81

If real property is sold at auction, payment of the expenses of the auction are not to be included in it. 83

P

In contracts to be performed in one year it must be the expectations and intent of the parties that it will not be performed within one year, and if there is any possibility of its being performed in one year, the contingency takes it out of the statute 88

It is at present disputed, the generally settled in the negative, whether stock is of goods, wares or merchandise 90, 89

Where the ~~ds of fraud~~ & perjury require the contract to be in writing, the consideration is that there is one must appear the promisor's ~~[illegible]~~ ~~[illegible]~~ might object to the contract 163

Where the contract must be in writing, the parties must know that is in writing & assent to it as it is written 116

A writing or memorandum without the name of either the parties in it is nothing

In sale of goods at public auction, the writing down the name by the auctioneer satisfies the st of ds; so - 119, 120

But if the auctioneer sell real property by the writing of the bidders name is not a contract in writing in Dist. 128

A contract with an infant can never be converted into a tort 149

And what arises out of or follows this contract of an infant can't be the foundation of a tort 149

If an infant by gambling loses money he may recover it for this is fraud but on the other hand the infant if a winner would not be forced to refund unless when the law says money lost by gambling shall be irrecoverable 154

If an infant is properly provided by his parents & he dies not bound even for necessaries i.e. if a person trusts an infant who is properly provided he cannot recover if the parents live so near that he could have been sued but if they lived too far off the creditor is

not make the enquiry — 155, 108

It is now settled in Eng. that a woman living upon a separate main. as she cannot be sued alone as a feme sole it is known that she has a separate support. The husband is not liable on her contracts, this law here says is not so in Com we must judge of our own law & in case of separation the man has no single power to sue with or for the woman 174 [illegible]

But during a temporary voluntary absence of the husband, the wife can make contracts & be sued as a feme sole 184

[illegible] may be sued as sole [illegible] a sole trader. But in no court of Com law is a woman married liable as feme sole 184

[illegible] has [illegible] reason, [illegible]

[illegible] for her necessaries, for so long as the wife [illegible] with her husband is liable for her necessaries 192

[illegible] is liable on the wife's contract express or impliedly if then the husband publishes that he will trust his wife, a person trusts her at his peril 192 for necessaries, 192 [illegible] this so [illegible] the means of living

[illegible] joins in all suits on the contract made by the wife before coverture 216

[illegible] all contracts made [illegible] other coverture joining of action would revive to the wife if the husband should die 216

[illegible] or an affirmative or duty by [illegible] of a particular [illegible] as a clerk, factory & the principle is otherwise, as upon [illegible] to and the past employer [illegible] he is not bound to pay [illegible] particular [illegible] for the [illegible] 227

If a servant with a master is obliged to furnish his master with supplies, in all things, I cases in law, it is settled that he is not liable in the other contra 230

Slaves are covenant servants, if they have been thus principles in all ~~trades~~ contracts the law in all ~~trades~~ contracts not exceed in a time as the ile 239

A bailiff is in general liable for the misrepresentations and receits of his agent 242

One tenant at delegate his power or any part of it to another, it shall be understood in the contract, this fragment be an act be agent, not fragments to the 244

If a master send or order his agent or servant to receive money, in receiving notes 244 in the master money he loses recovery in the receipt or not but the receipt not be retained in any action

If the law has been publicly a partner
is liable until the dissolution of
partnership is known 293

If one person agrees to buy a quan-
tity of goods, and to let others have a cer-
tain proportion of them, this is a mere
contract & no partnership 298

The agreement of one of a firm without
knowledge & assent of the other or others, to
the new firm is a debt contracted by
firm, and the man this
contracting with this new firm knowing
that this is not the firm with which he
originally contracted, is invalid, for his
negligence is considered as fraud 313.14
In partnerships, the partnership is not
liable & can not without individual consent
be obliged for contracts entered into by any
of the individuals before the firm was formed.
313
But the firm is liable for any contracts
made in the name of the firm by any
[illegible] transaction [illegible]
[illegible] if one partner in transacting
[illegible]

come under the certificate 411 Bonnard

of a bankrupt prefer one of his creditors to his fraudulent, but there must appear to be fraud 454

But if a creditor be paid by the bankrupt under apprehension of a legal process however groundless the payment is good, 457. but I suppose in this case the Court must be fully satisfied that there is no fraud practised.

The executor or administrator is answerable in all the personal contracts of the deceased, 522

Where the cause of action arises in the deceased's own time the executor must state his representative capacity, when it has arisen since, he may sue in his own name any debt due from the deceased to the person and can't be set off 526, But I suppose it must appear somehow that this person is the executor or administrator else he has no more right than any other man

however the testator would have been liable to an action, his executor is liable except where the contract requires something personal from the testator 527

If a person promises to pay the executor at his request this is a good consideration & the last part will be in writing, ~~but if~~ ~~a promise the next at that time would be~~ ~~on account of the executor~~ 529 and this whether he have assets or not

An executor is not liable himself to pay any debt on parole contract unless there be some new consideration, the consideration that his testator owed the debt is not good

Debitatus does lie for the recovery of Cash, this is the ina money

2 L'ed

If the auditor has paid over the money he has received, a detinet ought to be brought against the employer & owner

2 L'ed

Where an agent pays money for his principle through mistake, the agent or principle may sue for & recover

2 P. 28

Where money has been paid on a forged bill to a bona fide holder, who has value for it, it can't be recovered back

2 V 34

And if money be paid through an error of fact or law, which the person has the means of removing, it is not recoverable

2 V 37 and Pothier says an ignorance of law is never any excuse

Where inadvertent a prompset is brought the contract if there was one is void

And where money is paid through coercion or mistake of fact which could not be taught, it is always recoverable

The ground of inadvertent is where the contract is void or void & is never brought but on a contract made by the Court 71

Where the contract is not closed, i.e. not performed, action on the contract is the proper one unless it be rescinded 75.

Where an article is warranted, the contract cant be rescinded, but action on the warranty must be brought 2. 77, 78

Generally, Where money has been paid on an agreement & the contract has not been completed, action on the contract may be brought or the contract may be rescinded & the tables brought 2 J 81, 82.

Even written contract here being a specialty written contract cannot be rescinded

Money paid upon the receiving consideration or [illegible] cant be recovered in indebitatus [illegible] but may all be sued for in assumpsit [illegible] 2 Ld Raym 80 and without a [illegible] contract only the barrister can see [illegible] money

In insurance where no risk has been run the premium is recoverable or there is no consideration 2. 86

[illegible] to the contract, where credit is given to the firm, it is to be considered as the act of the firm 318, 19

Generally Partners have no action against each other unless there be an express contract in law, their remedy being in Equity 327

A person who supplies a ship with necessaries has a lien upon the vessel, upon the Captain, upon the owners. If the contracts by the Captain, he & his owners are bound unless the contrary appears from the contract, and if it appears that credit is given only to the owners the Captain is not bound 328, 332, 334.

And the owners are liable for debts contracted abroad by the Captain to answer the necessities of the vessel 338

If freight is injured in its transportation by the negligence of the mariners the merchant is not bound to receive it, but if he does he is bound to pay ocean freight, plus after the value of the waste is deducted

There is an apportionment of freight in two cases 1st where the whole voyage is not performed & 2d when part of the freight is lost — in the first case the merchant acts optional in receiving the articles before they are usually delivered & in the second, it is optional about receiving those articles that are transported 347 ~~But~~ ~~Option in those cases is to deliver~~ ~~articles from the ship or to publication~~ ~~The captain is not answerable & the voyage is to be considered as completely performed~~ But in those cases of apportionment, where wages are recovered pro rata they are not recovered on the original contract for this has never been completed 354.

In long the contract of sailors must be in writing for their wages

If a vessel & cargo be lost, unless through negligence, the captain is not answerable and if he can save that part, the owner must pay pro rata for that part, if the part lost were not lost through negligence

so the owner may recover the value of the whole contract and not pay any wages 343 or if he chooses to take the part, the wages pro rata will go against the loss so far as they can — and when the freight brought into port is entirely ruined, if the injury arose from negligence, the merchant need not pay any wages, but if it is inevitable accident he must, 343 [illegible]

In England, no seaman [illegible] more than a moiety of his wages until the voyage be performed 387

But in America, a mariner may recover one third of his wages then due at every port where the ship lades & delivers [illegible] Sailors have an action for wages 344 against the Captain or owner or a lien on the vessel 391 —

Some parish defrays the expences of a poor stranger until a parish at [illegible] request it is liable, but Company day, if not at the request or by express promise to reimburse, it is not liable 397

But if there is this moral obligation raised on [illegible] in other cases

If a person relieved receives money for a pa-
ment that ought to be repaid by the parish
he may recover for the parish 398.7

If a man's servant falls sick, if the master
[illegible] to take care of him and he informs
the parish officers that the person is sick at his
house and they take him away he can recover
all expenses from the parish 389

If a person give a note by way of security to
parish officers, to cancel the expence of a poor
[illegible] child, [illegible] transmitted real
[illegible] and [illegible] is that note
[illegible] 211.212

Where the contract is that the originally
debtor shall be wholly discharged, it must
be in writing 58

All debts bonable at the time of bank-
ruptcy when it is committed come under
the certificate, and if they be due ~~now~~ in presenti but
payable in futuro if they are in writing
[illegible] not otherwise, they come under the
certificate, but if the debt is not ~~also~~ due
[illegible] of bankruptcy, it does

If risk has been once commenced on an entire contract of insurance, the insurer shall not be entitled to any apportionment of return of the premium 2 P 89

An insurance effected to trade with the enemy is illegal & the premium cannot be recovered 2 P 48

If the insurer has been guilty of fraud the premium may be recovered 2 P 108

Where one has paid the principle & usurious interest in indulgences he can not recover the excess of interest, the principal is recovered by debt 2 P 113

Where one brings indulgences to recover money, for the fees of his attorney, the fees must be certain, he must state them 2 P 132

I suppose where a certain interest has been paid or a bankrupt has paid a note which he might have avoided, tho he laboured under no mistake or compulsion the law will help a recovery 2 P 118

If the sheriff or gaoler voluntarily suffers an escape & they are alleged to pay the debt they cant recover in ye the prisoner 2 V 212

In contracts the article must be taken as a time of payment, live or the price lives either of these will make the contract void

Where a vendee orders the goods to be sent by a carrier gen. the vendor can bring action for them after they are in the hands of the carrier 2 D 231, am. Cas. pass if the goods not been recd. but he is not answerable for them, ~~to~~ ~~for whose benefit~~ ~~and~~ see ~~[illegible]~~ carrier for damages

If a man sells articles saying they are his if they are not he is liable on the contract 2 D 203, but if he did not mop up the thing himself and merely warranty is mere [illegible]

If an article is warranted it may be returned immediately as it is discovered to be unsound but if it retained an action will lie on the money 2 D 582

Every thing is negligence on board vessels packet &c but the act of [illegible] the [illegible] 2 ld 322

Surgeons &c may maintain an action for their services 2 [illegible] 309

Personal property consists of [illegible] & personal chattels, [illegible] belong to, or [illegible] annexed to it, are real [illegible] but [illegible] property is [illegible] and as [illegible] [illegible] they are [illegible] personalty [illegible] [illegible] in the [illegible] quire the [illegible] [illegible] [illegible] His [illegible] that [illegible] the [illegible] personal, and [illegible] [illegible]

Debt at C Law ~~one~~ lies one where there was ever an express contract between the parties & never where the sum is not [illegible] or [illegible] by the act of the parties or the law

Qualification of [illegible] lies [illegible]

when debt will, for I believe the reason for the action must be ascertained as in the former case

Express Assumpsit lies where the contract is not closed but the assumpsit where it is — but after the contract is waived as where nothing has been done or where both parties are willing it should be waived, and the indebitatus Assp lies

Where there ~~not been~~ a sum ascertained with certainty, is either an express or an implied contract & there is no express promise for this sum, Indebitatus will lie on the implied promise & debt wont, tho debt will lie on an implied contract yet I think not a C Law

man

An executed agreement presupposes an executory agreement but finished, but there are executed contracts which do not presuppose any executory agreement — this free to contract, without consideration

Contracts are either Express or Implied

If a man is under a mistake upon the subject which would not have made the bargain — the Ct will set it aside

If one man makes a bargain with another when in liquor the Ct will set it aside because the former takes an unfair advantage — If a man is present when his property is sold to another and does not object afterwards recover it, fraud is presumed

If a man agrees to pay a sum of money at such a time or for the use of it do he is bound in law not in Ct —

If the parties are both under an erroneous mistake Ct will generally set it aside, not when

45. When persons are under Pay or Mor necessity
the con. are not binding, but in implied contracts
a person is not a fare i.e a free and unentirupt-
ted exercise of Pay and Mor faculties

Contracts of a lunatic and non sane memo-
ris are void 1 Ow 11, 4 Co 133, 8 Mo 196, 201
2 R 319

It is an indecency for the heir to stultify
the father as the father himself — Bro Elis 978,
612, 022, 4 Co 123, 7 B 41 It is in Eng a maxim
that it is himself. But says Cowel the contrary
would open a door for frauds, but as
that door is now open as before, A lunatic
can now get rid of all his contracts, but certain
legal forms are preserved to prevent entire ex-
ahim which exist not at Com law

Coke can govern in this case because Ch -
can set the action aside, In every case where
an undue advantage has been taken Equity
will interfere, but there may be great dis
parity in the contract and Ch will not in:
1 Vesey 19

The law does take care of persons that are
lect Jonst 46. 63 — 3 Ecca Wills and 12 1

The heir is bound in Eq by a the executors contract of his ancestor, on the ground of his having assets; Eq will always consider a thing as done which ought to be done, and which is agreed to be done, this will run through a thousand cases 1 L Ca 316 3 Levin 284, 1 Vern 103 1 Ch ca 118 1 Co 126 2 Roll 728 for humanity

It, non sane mens can not bind himself by a contract Cro Eliz 378, 612 4 Co 123, 6. 1 Ch ca 11 a 12 Ch 107 3 P W 105, 2 Ch ca 118, 1 Eq ca ab 279 1 Vern 82, 10 M 129 2 Eq ca ab 205, 4 Vern 418 1 Vernon 139, 2 Atk 324, 6 Br P Ca 137

An Infant is bound only upon a quantum valebat and quantum meruit, not even on an express contract is for necessaries, certain things which he can not do without, rather than particularly he is found in them [illegible] out, [illegible] their, he can not bind it, but if he want but he may be overreached, it will [illegible] new mens is more hastiness, if he has been imposed upon, [illegible] contract [illegible] not [illegible] with [illegible] should be [illegible] indirectly

[illegible] secondary contract of an [illegible] is never [illegible]
[illegible] a foundation for the liability of the [illegible]
[illegible] power of Attorney from [illegible] when the
[illegible] matter of interest is [illegible] —

Aliens cannot take real nor personal property
[illegible] laws of the realm, nor an estate for years
[illegible] contract is good as a vendor, does to the Public
[illegible] enemy an never enforce an action —
[illegible] contract of an alien friend are good
[illegible] 2 1 P. of 301. 1 Salma 7, 1 Show 135 3 Atk 94,
7 Co 17 6 Mo 23, 35

[illegible] never [illegible] however an important well
[illegible] a contract, so the compromise of a doubt
[illegible] 167 726
[illegible] a woman when she married with
[illegible] would go into
[illegible] 587 Co 87,
[illegible] 58 M 516
[illegible] the horn
[illegible] 3 B & Cr

Case & Br 1 Co 117, a case [illegible] for money, & [illegible] that he should pay the value of the horse, a [illegible] principle, [illegible] be no recovery 2 L R 110, 6 Co Case 605

Recover

Co Lit 2 b

A contract with B to break the revenue laws B is not bound to do it, nor if he does it, to pay him.

A contract against bonos mores or against law, and no interest is concerned in vain so if it has a tendency to encourage a breach of the law, as a bet that one can't what ans[illegible] to set them a fighting —

So all contract that have an fraud be practice in used are void, so a bargain at an auction, between auctioneer and speculator the speculator must keep the good.

[illegible]

[illegible], 1 reserving too much & taking too much. Yet say I will let you have my [illegible] let you note for 100 in usery and void, but [illegible] much is taken the note not void but the interest is a penall, and [illegible] penall is as great as [illegible] in lieu, in lieu and one of [illegible] a great

[illegible] 6 [illegible] 6 [illegible] for it is [illegible]

borrow money and agree to pay interest upon [illegible] at the [illegible] of [illegible] not usurious [illegible] man can never [illegible] upon [illegible] from an [illegible] age [illegible] borrower, well [illegible] action,

[illegible] relative [illegible] are [illegible]

[illegible] for 6 months [illegible] more than 6 for the [illegible] for [illegible] the end of the 12 months there is for [illegible] $103 [illegible] but this is not usury, [illegible] a man should receive interest [illegible] year and continue to loan with the [illegible] principle, this would be usury; [illegible] upon this principle [illegible] interest [illegible] [illegible] and till the end of the year but [illegible] time of 12 months, no [illegible] material [illegible] never being article of an advance kind

a [illegible] relation of the D. is usury

It depends upon the question whether it is bargain or loan —

Where the principal as well as interest is hazarded, more than 6 P C is not usury — so respondentia bonds, annuities upon lives. It must be a bona fide hazard, eg. If a young man dies before morning, or a [illegible] money, this is a sure colour, also hazard; in all cases, pregnancy must be used to determine the hazard, If Et lends bad to B, to return in 12 years with another, not usury, for the coin may be killed with big [illegible] other way —

If there is no corrupt agreement, it is usurious, as if reserved by mistake. The intention is the object to be considered — Et lends B, and if he does not pay 6 P C now, he shall 12 at the year's end, this is only a penalty, a [illegible] not recoverable

~~In case~~ If there is no corrupt agreement, the parties, no usury — Is there any, if only [illegible] are corrupt, decided in the negative since 6 [illegible] are incorrect —

that least fraud — the money was lent and
so much was reserved, then it is usury
[illegible] contract [illegible] [illegible] [illegible] then according
ing to the S. it is usury —

A owes B 100 $ usurious another hundred notes usurious A gives a note to B for $200 at 2 request [illegible] from analogy the contract seperate from the note is good, but the note is usurious [illegible] [illegible] that is avoided the original con- [illegible] may be recovered upon Count B —

A day man can recover back only only so [illegible] a good conscience will suffer, what good conscience is the no [illegible] law of the State [illegible]

[illegible] can recover back in all cases where [illegible] than 6 P C is paid

[illegible] [illegible] what the security is bond or mortage

[illegible] no necessity of ever applying to a court [illegible] can be proved, [illegible] may appeal to conscience of [illegible] against [illegible] the [illegible] do any more than strike out usurious [illegible]

[illegible] on this subject in Cam vesting

[illegible] ho
henant [illegible] a [illegible] [illegible] entire, [illegible]
bh daughter [illegible] inlet, [illegible]
the interest and damage the Pltff

you can never plead non est factum to a
wrong bond, the utility void, must be
in evidence under the gen issue — if
a security you may plead the gen issue, or a
if a note non est factum

Can a new trial be granted in any case
the Pltff fails in his defence in an action
case? It is claimed there can be no new
trial in case of usury, only [illegible] case
consent on the part of the [illegible] If a man [illegible]
for penalty and don't recover [illegible]
gain in the action, not even if he gets [illegible]
usury is to operate upon the [illegible] as a penalty
if there it can be proved the contract [illegible]

Bills of Exchange

In a bill of exchange money will not be [illegible]
by its being negotiable, he sues in a
table [illegible] ment may be barred by the
ing nego able. Jaug 413, 2 [illegible] 1155, Dan 120
3 Wil 272, [illegible] 702. Bro 120, 1 Saund 254

307 Several sort of goods are be the cause
the foundation of usury Ante 378

Securities of real property are void Bro Jac 508, 9
Atk 644. 2 Atk 124, Hazard bona fide
Atk 379 5 Ves 70 Bro Jac 508. 2 Ves. 209 Bro Cl 642.
741 Bro Jac 243 507. Barth 68, 2 Burr 704, 18 Ves 8,
Atk 518. 1 Ver 104 3 Wil 390.

Government can do unauthorised thing of a nature
[illegible] and money not to the last
[illegible] time it was correct

Gaming

[illegible] ity given for money won at gaming
[illegible] at Com Law B. St all securities for
money lent for gambling are void, the for-
[illegible] void at Com Law as unsound policy
[illegible] only by St the contract itself is
[illegible] St declaring the security void does not
affect the contract itself - so money lent at
law may be recovered, - there is no consider-
ation where the parties are in pari delicto,
the law will not lend its aid to recover back
money lost by a promise to pay over
[illegible] would be void, but
over money at law may be recovered in

recovered 2 Burr 1077, 1 Bl. 792 —
In N York it may be recovered but I know
of no other M of the kind —

Every penalty is compensable in £, if it
is a round sum it is a penalty and if a man
agrees not to trade in a certain place on
the forfeiture of 1000 lb and then does
sell a quart of ale there, does he forfeit
the penalty? he will give the attorney
only the damage he has sustained.
A contract indemnifying a criminal
action is unlawful so far, not however
if the person indemnifying at the time
knows there is no unlawful [illegible] bro
Jan. 6 72

27 497

24.

479

[illegible]

[illegible] 1.9

[illegible] in ordinary cases [illegible] be taken [illegible] obligee, the goods [illegible] taken under [illegible] the lands

2 Co Com 101, 300 & 418

2 Prest 318

[illegible] obligee the goods are not [illegible] but only [illegible] the [illegible] [illegible] the debt

Comy Dig 2 [illegible] 101 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Sec. 166, Pages 219, or 220

Sec. 16. 28 [illegible] 280

Sec. 148

[illegible] offenses [illegible]
[illegible] either land or [illegible]
body may be taken, because
new state cannot be noted, [illegible]
[illegible] taken [illegible]
[illegible]

Section 282, [illegible] 4, 5,

Sec. 332, [illegible] 282

[illegible] the offenses [illegible]
[illegible] without [illegible]
[illegible] is [illegible]

Sec. [illegible]

Our law is more [illegible]
[illegible] express [illegible]
but [illegible] [illegible]
the [illegible] [illegible]
[illegible]

utensils one cow, 10 sheep
2 swine, he who takes the
is a trespasser

2 Swift 282

A Sheriff has been in the
levels, and the outcome lay
against the Sheriff

A Sheriff after the body in arrest
shall be forever incapacitated
personal property in land
or [illegible] body, must be
[illegible] 2 Swift 281

[illegible] has been in defaulting in the
[illegible] on [illegible] the Sheriff
takes or leaves at his peril
the generality of property

2 W 33 K 118 4 Ohio St
033 048

[illegible] Sheriff [illegible] could
[illegible] upon [illegible] and
and thus prevent [illegible] bonds

[illegible]

[illegible] there is no doubt about [illegible]

[illegible] 1883

[illegible] of the [illegible] which is [illegible]

[illegible] 1883

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 282

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 823, 340, 1 Dec. 109

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 1811

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 60 days [illegible]

[illegible]

[illegible]

[

[illegible] not of course grant
an execution against an [illegible]
from who [illegible] bein of his, fo
[illegible] hapes [illegible] may not be [illegible] trea
his

to [illegible] ch. [illegible] 3 [illegible] Ca

[illegible]

[illegible] if it [illegible] [illegible]

[illegible]

Vo [illegible] 4. Sel. 320.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

A forbearance before or after suit are the same — The ground of the original suit cant be enquired into the present Deft can say any thing about it — But only apparently the Deft in the first suit must have been liable as appears in the present declaration & of course nothing in it must appear to the contrary

Ware vs Platt 1 Saund 137 —
Pom Cont 356 —

— — — — —

Where money is to be paid by instalments it will not Affect lie, either by considering the parties as having mutually agreed that there shall be so many distinct contracts, as that Affect or Covenant or debt will lie — or by considering the contract as entire, and suing on the same as often as there arises any distinct injury, which from the nature of the case and by the agreement of the parties, consider

could not have been recovered for in the prior suit, hence there must be an exception to the gen maxim, that one suit only, can be maintained on the same contract, and there is no reason why there shouldnt be this exception when it must be presumed that the gist of the subsequent action has arisen since the prior suit, and this too by the agreement of the parties. According to the Authorities the contract is considered as entire, as that Express Affpt or Covenant probably could not be brought for any one instalment alone. But Implied Affpt may if the contract is simple, for this action is not founded on any express contract, but sues on implications as the Express contract will throw when any one instalment becomes due. So dult is the same if the contract is specialty, this being where there is a lien indebtedness

but debt in Eng wont lie tho there is no reason for it. The action is perfectly analagous to Indebitatus Assumpsit, which is but debt on simple contract. Chit 8 105

Two actions wont lie on one contract because it is always presumed full satisfaction can be obtained by the first action & no man shall be unnecessarily plagued with a second. But when as in Talements there is partial satisfaction only, partial satisfaction will be obtained in the first suit, a second suit is absolutely necessary else the Pltff wou lose his right, hence the suit is not in a Tous 1 Chit Pl 92

A mere naked power given to two or more must be exercised by all, but if tis coupled with an interest as Executor one can exercise it. 2 Sel P 789 - Powell on Ex & A

If the mere forbearance to sue is whether there was originally any cause of action or not is a consideration vide Toll on Ex 354. 2 Sel. P 803 — 5 Bac 8
Ord on Usury 108. 1 Law Ord, 1 Saund 137, Com Con 356
1 Wils 305, Law P 66, 482, 1 Com P 13, Sel P Appl
Law Appen part 44.

If in Con^t tals v the owner will survive to his representatives vide 2 Sel P 808. Day 180
1 Chitty on C 18

If that quiet possession merely, the owner as short gives title to real property as to personal except v the lawful owner, as that such person may maintain ejectment against the owner vide
4 Burr 24. 1 Chitty on C note 190

Qf

~~That~~ Property of the Deceased, being connected with real property, is personal vide

Tolson 4 153 2 Sel & C not 1274

4 Mass 54 14 Ham B 259. 3 Atk 13
2 Ran 190, 9 Cost 243, Coy 2d - 1 Salk 367. 8.
3 Ca 134

Qf

~~That~~ the contract of a Tailor for his Principal, the Principal is not known, is void

the contract of the Principal & the law ~~[illegible]~~ protect him in the enjoyment

it 2 Sel N C 1276 - 432 - Livermore 8.1
Marsh Jn 204. 243, 4 Vio Jun 108

Whether if the Dft wont perform his part of the contract, where the performance is the consideration, the Plff cant recover the contract - vide Piper 114 7 Rep Law Bd 6 Conway
4 Cranch

That a third person for whose benefit a contract is made, cant sue or maintain with the con=
tract himself ~~if the Bond be to parties~~ 1 Chit on P 3; contra, ~~even if~~
~~the contract be a Bond~~ ~~inter partes~~ - ~~or a Deed~~ - 1 Bro Digest
477, 482. 1 Ch & P 101

Tho' the old or the new promise should be
made, where the statute has been waived
1 Chit on P 40 - Peaks R 68 (Laws at 575
and 0.5)

Who, tho an infant is not liable in trover
or detinue, for the property of another, which
he obtains wrongfully, but cant in justice
now held 1 Chit P 62. Com on Cont 149; Laws 580

Whether a merchant can recover for supply to an elopd wife, in all cases, ~~in all cases~~ without notice Rob F Conw note 337, Pit Ba & F. sheet 2

Whether a contemplated assurance of crops &c. takes the sale of them out of the St

Bits on Frds. Advertisement 15 = page 365

Can the opposite party be called on by his Antagonist as a witness? 1 John 159, 4 Dill. 230, 15 St 670 6 Cruise 267, Salk 691.

Whether a man by paying voluntarily money for a third person merely because he thinks he is morally bound to pay it for him will entitle him to a recovery Lever 224

Whether an infant can make an assumpsit before the age of twenty-one years

tors time, the is clear they wont agree on

2 Bp 645 Ryd 85

Can a person confess & still claim a privilege of the Statutes

Rob 7 160. Laws 616, Pow 270

Will a Court of law ever regard a mere moral duty or obligation

Lawr 245 of 260. 2 Leon 111

Is the continuance of a contract or obligation itself a consideration for any new promise Laws 436, 443, 12 note

---

Can a contract made with an enemy during hostility be sued on after cessation of hostilities

Laws 696, note. 4 M.I. 14 Cont.

can an absolute deed be proved to be a mortgage, or that it was so intended by the parties, from any collateral circumstances.

5 Mass R 109 [illegible] 3 [illegible] Sch 179, 5 [illegible] 109
6 do. 177 [illegible]

Will [illegible] to pay [illegible] thro
legal int [illegible] at [illegible] the [illegible] under the [illegible] vi
[illegible] 137

[illegible] 62 [illegible]

[illegible] 374

[illegible] 37 [illegible] 137

[illegible]

[illegible]

[illegible] I can afford to give [illegible] per cent [illegible]
am going to make a great speculation [illegible]
new land & boys I will [illegible]
in [illegible] I will [illegible]
[illegible] shade or may in [illegible]
[illegible] on what the [illegible]
B.

[illegible]

[illegible]

[illegible]

[illegible] of [illegible]
[illegible] judge that [illegible]
[illegible]

2 Day 910, 1 B. Rd 203

4 Day 104

8 4 Day 57.

Witness will be attended by [illegible] owning real estate, [illegible] will [illegible]

Witnesses 1 Day 66.

[illegible]

the dorsum the maker who pleads a discharge by the payee of the note [illegible]

[illegible]

[illegible] for an attorney [illegible] law [illegible] [illegible] 18 [illegible] 188 [illegible] 14

[illegible] to take [illegible] the right to [illegible] ~~[illegible]~~ [illegible] [illegible] Bro CL 196. 1 Chit 187. 4 East 148 Selw 49. 1 Ld Raym 6[illegible] 2 Str [illegible] 1614 [illegible] 4.37

Nisl 151. Bio 4151-5
Burrad 25-69. Clart 184

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] obliged to answer a question on [illegible] a fact, not connected with the merits of the cause, which may [illegible] public or private suit

Peake — 138, Smith 48 49 [illegible] 2 Wm 146. Bint 305 [illegible]

[illegible] are [illegible] to answer [illegible]

[illegible] 35 1 Brod 453

[illegible] criminal [illegible] good [illegible] 1610-13. 4 Esp R 134. 2 [illegible] 638

43, 4, 7 Cost 1[illegible]
El. R 2. 74. 54. 54E

Gen. P. [illegible] to a Bill or a note [illegible]
[illegible] all notes be sued before [illegible]
[illegible] to the holder — [illegible]
[illegible] B 199. 13 & 2 mts. 1600 & 01. Laws M 232.2

Will an action of debt lie for interest —
[illegible] 370.1.2.3. [illegible] will for real
interest [illegible] damages

[illegible]

[illegible] debt lies
[illegible] 179

[illegible] call a thing at an [illegible]
[illegible] inside [illegible] given
[illegible] lodging [illegible]
[illegible] said, when [illegible]
[illegible] property [illegible]
[illegible] owner [illegible]
[illegible] for damages. [illegible] 20.

Son a Purchaser by bidding, or his [illegible] the
[illegible] subsequent real bidder, dont [illegible]
[illegible] avoid the sale Sug. 18.

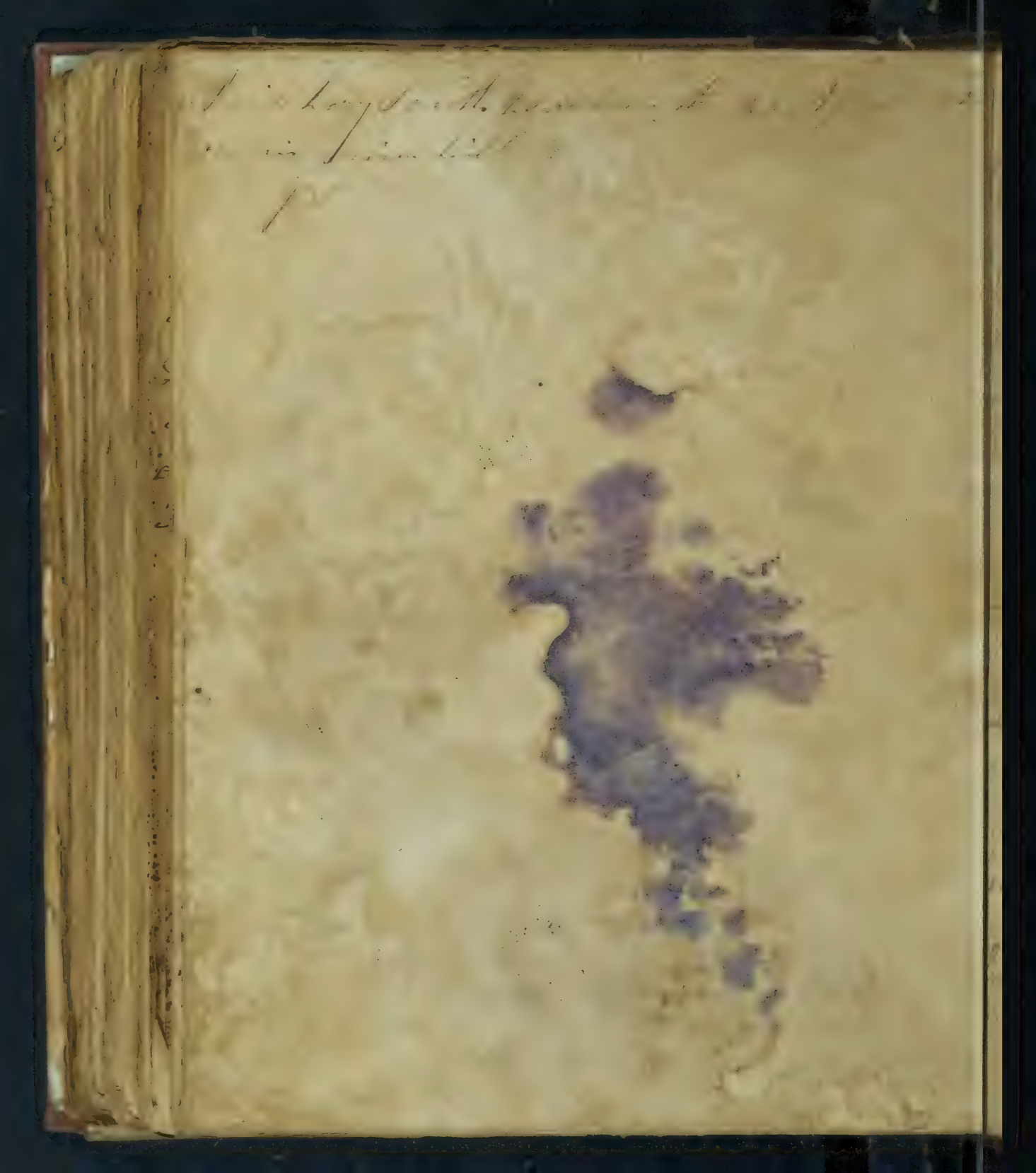
If A devises land to B and then devises to C a
[illegible] which belongs to B, proving his own [illegible] does
B by counting the devise agent to C proves [illegible]
or fails CW Consul [illegible] Sug. Ven. 18

If Tenant [illegible] [illegible] Sug. 1
[illegible] the consideration to [illegible]
[illegible] for [illegible]
[illegible] to recover [illegible]
Wms 433 Sug. 150-8 [illegible]
[illegible] Sug. 2
[illegible] Sug. 19 note

If a [illegible] in his death, to prevent A from his wife
dower, sells his estate or leases it. [illegible]
[illegible] is so much in fraud of dower that
the contract will be void Sugden [illegible]

If a tell a man I will give him so much if he will do such a thing in a year & give him the whole time, ~~to thirty~~ on it & he lies all does it or offers to do it & wont have it, [illegible] for want of [illegible]

T. S., Jul. 1794



[illegible] of Jurors & Witnesses Debtors — $1. 0

[illegible] to attend in Justice Court at Whitfield — debtor 3. 0

[illegible] 11

[illegible] 1.

[illegible] $1. 0

[illegible] 11. 0

[illegible] — $1 — 0

August 18

Sam Leahey for counsel — $1-0

Letter 3

[illegible] Torrison [illegible]

Court [illegible] $3

[illegible] Lidley [illegible]

[illegible] on [illegible]

Court [illegible]

Letter Freeman [illegible]

[illegible] 7 Oct 1814 [illegible]

12 Octob 1814 Ebenezer R Barnard [illegible] $1.0

1 October [illegible] Bartholomew [illegible] $1.0

[illegible] Trumble.

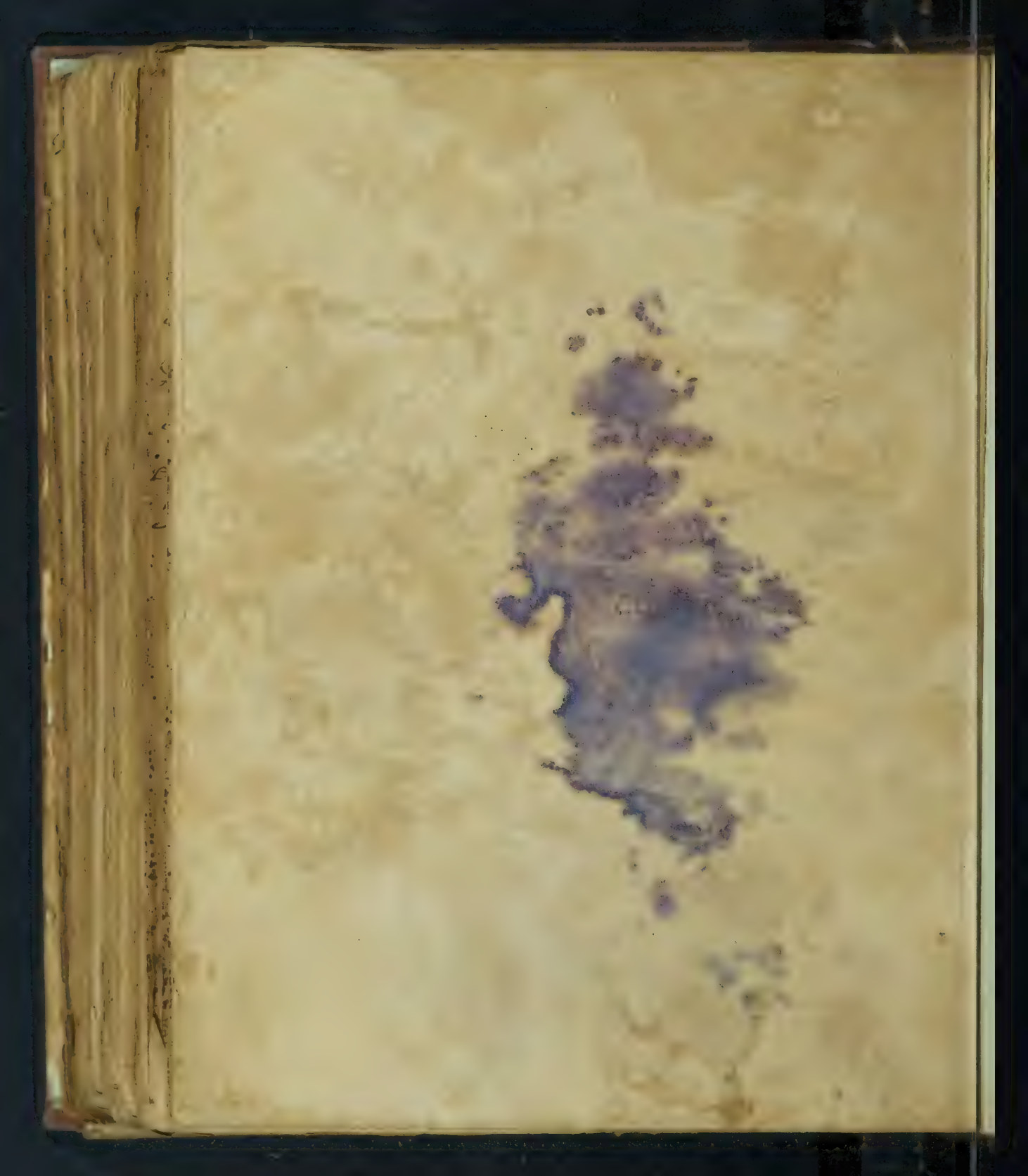
[illegible] Tracy & Star counsel — $1.0

[illegible] for 1788 — $51.0

[illegible] each for 1788 — $5.

[illegible]

October 20
On writ of attachment & the costs in the execution of Freeman & Wm Corning, which Question Freeman settled with Corning by taking a note



LITCHFIELD

LAW SCHOOL

MANUSCRIPT
NOTES
BY
REEVE & GOULD

VOL. II

1807-1809